

Fellowship of Catholic Scholars Quarterly

Vol. 43, No. 2

Summer 2020

COLUMNS

William L. Saunders

- FCS President's Letter..... 111
Washington Insider: The March for Life..... 113

Joseph W. Koterski, S.J.

- From the Editor's Desk: On Cultural Marxism..... 123

FROM THE 2019 FCS CONVENTION

Christian Domenic Elia and James Kent Donlevy

- The Assault on Freedom of Conscience and Religion in Canada. 133

ARTICLES

Christopher M. Carr

- Using Counterinsurgency Strategies against
the Catholic Church: The Example of *Humanae vitae* 155

Glenn Statile

- Putting Miracles in Their Place..... 169

Peter J. Colosi

- The Coronavirus and the Coming Fall Semester..... 183

John Gavin, S.J.

- Wisdom out of Africa: Robert Cardinal Sarah's
Witness to a Church in Crisis..... 193

Chen Guangcheng and William Saunders
The Chinese Communist Party Is a Bigger Threat to Humanity
than Coronavirus, and America Must Confront It 203

Thomas C. Behr
Luigi Taparelli on Cult, Culture, and Authentic Progress. 207

BOOK REVIEWS

David Vincent Meconi. *On Self-Harm, Narcissism, Atonement, and the
Vulnerable Christ*
Aaron Pidel, S.J.. 221

Benedict XVI and Robert Cardinal Sarah. *From the Depths of Our Hearts:
Priesthood, Celibacy, and the Crisis of the Catholic Church*
Joseph W. Koterski, S.J.. 224

MEMORIAL NOTICE

Mark Latkovic. 229

Information about the Fellowship and the *Quarterly*. 231

Letter from the President of the Fellowship

Friends,

By the time you receive this issue of the *Quarterly*, you are probably aware that we have had to cancel the 2020 convention. This was not a decision arrived at lightly. However, the tenacity of the coronavirus and the many uncertainties surrounding holding a convention during the pandemic, as well as our concern for the health of our members, left me and the board no other choice.

Thus, the next convention will be held at St. Louis University, hosted by Fr. David Meconi and his team, and will feature the same excellent program we had planned for this year. The next convention will be held September 24-26, 2021. I hope to see you all there.

Unfortunately, I shall not be able to greet you in 2021 as the president of the Fellowship. My term expires this September, and having served two terms, I am term-limited. I am absolutely certain, however, that the board will elect a fine president to replace me. So let me conclude what is likely my last letter in the *Quarterly* as your president by saying what a great privilege it has been for me to follow in the footsteps of the giants who founded the Fellowship as a home for orthodox Catholic scholars amid times of upheaval and dissent, much like our own.

I want to thank the officers who have served with me, Susan Traffas as vice president and Msgr. Stuart Swetland as secretary. I am, of course, also grateful to those who have served on the board, and to Fr. Joseph Koterski and Elizabeth Shaw for putting together another fine edition of the *Quarterly*.

Until we meet again, I wish you and your loved ones the best of health. And please join me in praying for our country and for the Fellowship.

Cordially,

William Saunders, Esq.
President, FCS

Washington Insider: *The March for Life*

*William L. Saunders**

THOUSANDS UPON THOUSANDS gathered for the annual March for Life on January 24. The crowd was so large that it took hours to pass by the designated starting point. It was packed with young people from various colleges and parishes throughout the United States, carrying pro-life banners and signs of all types.

The actual marching – down Constitution Avenue to the Supreme Court – was preceded by a rally near the Washington Monument. Speakers reminded attendees and those watching online that the theme this year celebrated the hundredth anniversary of the ratification of the Nineteenth Amendment to the Constitution, which granted women the right to vote. March for Life president Jeanne Mancini emphasized that the suffragists by and large opposed abortion, which they saw as a means of oppressing women.¹ Jim Daly, president of Focus on the Family, told the crowd that, at a recent pro-life rally in New York City, protestors representing the Black Lives Matter movement, on hearing that abortion takes more black lives than the police do, threw down their signs and joined the rally.

For the first time since the March began in 1974, the president of the United States spoke in person to the crowd. (President Barack Obama was the first president to speak to the annual convention of Planned Parenthood.) Coming amidst the effort to impeach and remove President Donald Trump, the March and rally attracted attention from the media, which usually ignores it.²

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¹ See Jeanne Mancini, “Early Feminists Were Right about Unborn Human Life,” *Daily Signal*, January 3, 2020, <https://www.dailysignal.com/2020/01/03/early-feminists-were-right-about-unborn-human-life/>.

² See, for example, Doug Stanglin, David Jackson, and Joshua Bote, “At March for Life, Trump Says the Unborn Have Never Had a ‘Stronger Defender,’” *USA Today*, January 24, 2020, <https://www.usatoday.com/story/news/nation/2020/01/24/march-for-life->

President Trump spoke strongly for life and against abortion, and the large crowd was appreciative. President Trump would carry the pro-life theme forward in his State of the Union address nine days later: “Whether we are Republican, Democrat, or independent, surely we must all agree that every human life is a sacred gift from God.”¹

Executive Actions and Policy

A few days prior to the March, President Trump declared January 21 to be National Sanctity of Human Life Day, “[reaffirming] our commitment to protect the precious gift of life at every stage, from conception to natural death.” In the proclamation, the president “[called] on the American people to continue to care for women in unexpected pregnancies...[and] to listen to the sound of silence caused by a generation lost to us.”² He also noted various steps taken by his administration to protect life: ensuring that Title X family planning funds do not go to abortion providers and that states may exclude abortion providers from their Title X projects; protecting the conscience rights of health care providers; and expanding exemptions from the Affordable Care Act’s insurance requirements for religious organizations. He mentioned another highly important action that may not be as well known and appreciated: “My administration is also building an international coalition to dispel the concept of abortion as a fundamental human right. So far, 24 nations representing more than a billion people have joined this important cause.”³

To understand the significance of this, it is important to recall an event from twenty-five years ago – the International Conference on Population and Development (ICPD), which was held under the auspices of the United Nations in Cairo in 1994. Two visions collided at that conference. One vision saw population growth as the root problem to be remedied by drastic measures; the other saw poverty as the root problem. This was the first international governmental conference also to include large numbers of representatives of civil society, that is, nongovernmental organizations.

Unfortunately, many of these NGOs supported, or directly advocated for, abortion as central to controlling population growth as part of family planning. This was the view of the most powerful nation in the world, the United States, led at the time by President Bill Clinton. Hence the United States and the European Union pushed hard for recognition of an international human right to abortion.

washington-anti-abortion-activists-president-trump/4551608002/.

¹ Donald Trump, State of the Union Address (February 4, 2020), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-state-union-address-3/>.

² Ibid.

³ Ibid.

That vision of the human future came close to winning the day. However, the Holy See rallied Latin American and Muslim countries in opposition. There was a real, intense diplomatic fight, but in the end, abortion was not recognized as a human right. The preamble of the final document stated that it did not create any new international human rights. The actions for women's health and safe motherhood noted that "in no case should abortion be promoted as a method of family planning.... Any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process."¹ In addition, several nations included official statements as part of the final document, stating that nothing in that document endorsed abortion as a right.

Although the final document was not a legally binding treaty, the struggle over the content of that document was not "sound and fury, signifying nothing."² The final document had always been intended by all participating countries – that is, by all nations in the United Nations – to guide international lending and development. The fact is that developing countries depend on assistance from the United States, the European Union, and international lending institutions such as the UN Capital Development Fund. If the hammer of "universally recognized human right standards" could be employed against the developing countries to force them, despite their cultural norms to the contrary, to recognize abortion as a human right, it would be almost impossible for them to resist the pressure. Thus the pro-life victory at Cairo was very important.

Nonetheless, in the remaining years of the Clinton administration, there was unceasing pressure to recognize abortion nationally and internationally. In the United States, the pro-abortion forces hoped to accumulate evidence of soft norms, such as statements from other UN meetings, that would convince the U.S. Supreme Court that there was a universal consensus in favor of abortion. This would presumably make the Court less likely to reverse *Roe v. Wade*.

Internationally, the argument employed by the United States and other pro-abortion lenders against developing countries was this: If we cannot trust you to abide by international standards providing for abortion, how can we trust you to abide by the terms of any agreements we enter into with you? After George W. Bush was elected president, the pressure abated. However, the Iraq War caused a promising international pro-life coalition to break apart.

Of course, with the election of President Obama, the pressure was on again.

¹ United Nations Population Fund, Programme of Action Adopted at the International Conference on Population and Development, Cairo, 5–13 September 1994 (New York: UNFPA, 1994), 8.25.

² *Macbeth* V.5.30-31, ed. Barbara A. Mowat and Paul Werstine (New York: Simon & Schuster, 2013).

Nonetheless, abortion was never recognized as a human right between Cairo and today. However, in my summer 2019 column, I recounted how the UN Human Rights Committee, in the fall of 2018 and for the first time since the International Covenant on Civil and Political Rights became effective in the 1970s, interpreted the right to life in article 6 to require that abortion be available. This was a truly astonishing ruling – contrary to the plain words of the treaty – that may be an indication of the desperation felt by pro-abortion forces in light of the United States’ commitment to support the right to life internationally.

That brings us to the significance of the Trump administration’s actions. Speaking to the UN General Assembly on September 26, President Trump said the following: “Americans will also never tire of defending innocent life. We are aware that many United Nations projects have attempted to assert a global right to taxpayer-funded abortion on demand.... Global bureaucrats have no business attacking the sovereignty of nations that wish to protect innocent life.”¹

In effect, the president reinstated, greatly expanded, and invigorated the pro-life coalition that had begun during the Bush administration. Unlike under President Bush, the Trump administration made this a high priority. The U.S. Department of Health and Human Services (HHS) was designated to lead the effort as part of global health. The position taken by U.S. delegations at international meetings is now unambiguously pro-life.

This effort by the Trump administration had begun before the meeting of the General Assembly. For instance, at the G7 meeting in August 2019, the administration pushed back strongly against recommendations from the G7’s Gender Equality Advisory Council that included reference to a fundamental right to abortion.² In the end, however, there was no reference to abortion in the final document. The president also hosted a meeting on September 23, before the General Assembly began, to gather support for a coalition to protect religious liberty.

This is important for many reasons, including the fact that religious liberty includes freedom of conscience, which is increasingly under threat as anti-life measures advance in the health care field. President Trump said, “Today, I ask all nations to join us in this urgent moral duty. We ask the governments of the world to honor the eternal right of every person to follow their conscience, live by their faith, and give glory to God.”³ These actions came not a moment too soon. An

¹ Donald Trump, Remarks to the 74th Session of the United Nations General Assembly, September 25, 2019, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-74th-session-united-nations-general-assembly/>.

² Biarritz Partnership for Gender Equality, “Gender Equality Advisory Council’s Call to Action” (2019), 3, <https://www.elysee.fr/admin/upload/default/0001/05/c47fb3263f613522a886e2636b40f0d55ec5ef6e.pdf>.

³ Donald Trump, Remarks at the United Nations event on religious freedom,

important international meeting on the twenty-fifth anniversary of the Cairo conference was taking place in Nairobi, Kenya, in October and was aimed at affirming what was not true – that the Cairo conference recognized an international right to abortion.

The United States participated in that meeting. Its delegation, led by Valerie Huber of HHS, strongly criticized the meeting itself: “While the Cairo ICPD Program of Action was negotiated and implemented with and by the entire UN General Assembly membership, only a small handful of governments were consulted on the planning and modalities of the 2019 Nairobi Summit. Therefore, outcomes from this summit are not intergovernmentally negotiated, nor are they the result of a consensus process. As a result, they should not be considered normative.”

Regarding the aim of the original Cairo conference to “address the critical challenges and interrelationships between population and sustained economic growth,” the United States noted, “It is noteworthy that...the population growth predictions included in the ICPD Program of Action...have not come to pass. Indeed, in most regions of the world today, fertility is below population replacement rates. As a result, family planning should focus both on the voluntary achievement of pregnancy as well as the prevention of unwanted pregnancy.”

Regarding abortion itself, the statement noted, “There is no international right to abortion; in fact, international law clearly states that ‘everyone has the right to life.’” Finally, the United States noted that it spoke not just for itself but on behalf of a coalition of eleven countries.¹

The Trump administration aims to create a coalition and a pro-life legacy that survives the end of the administration. At a meeting at Blair House in Washington, DC, on January 26, HHS Secretary Alex Azar welcomed representatives of like-minded pro-life countries:

It is not just one or two countries that care about national sovereignty, the family, protecting the unborn, and ensuring a genuinely positive vision for women’s health.... Together, our nations can join together to support more sensible language in U.N. and [World Health Organization] resolutions, which puts the focus back on critical women’s health needs....

Looking back, in 2019, we came together on three joint statements that declared

September 23, 2019, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-united-nations-event-religious-freedom-new-york-ny/>.

¹ U.S. Department of Health and Human Services, *Join Statement on the Nairobi Summit in the ICPD25* (November 14, 2019), <https://www.hhs.gov/about/agencies/oga/global-health-diplomacy/protecting-life-global-health-policy/joint-statement-on-the-nairobi-summit-on-the-icpd25.html>.

our strong support for a positive global women's health agenda and for standing firm against the assertion of rights [such as abortion] that simply do not exist. In all, 24 countries signed on to one or more of the joint statements, and it should be an encouragement to all of us that these countries are home to well over 1 billion human beings.¹

The Supreme Court

At this writing, things are unsettled at the Supreme Court. In mid-March, because of the coronavirus, the Court postponed pending arguments. They have not been rescheduled. When they will be rescheduled is quite uncertain. Given the recommendation of the White House Coronavirus Task Force to strictly follow the prevention guidelines through all of April, it does not seem likely that oral arguments will resume in April. Will they resume in May? Or June? It is impossible to predict. It is possible that oral arguments will resume, not in person, as normal, but by remote means (for example, Zoom or Skype). That would be unprecedented, but so are the times. If oral arguments are not resumed in the spring or summer, the Court may decide to begin the next term, which ordinarily begins in October, earlier – say, after Labor Day – and to delay pending oral arguments until then. It is also possible the Court will proceed without oral arguments of the current pending cases.

All this is significant for the timing of certain important cases that were due to be heard during this current term. One of the most important of these is *Little Sisters of the Poor v. Pennsylvania*, which involves the HHS mandate. Most readers probably think the HHS mandate cases have been decided and the threat to Catholic hospitals and schools eliminated, but that is not true. The Pennsylvania case gives the Court the opportunity to end this litigation once and for all.

To recap briefly,² President Obama issued regulations requiring health care providers, including religious organizations, to provide coverage of basic health services that included contraceptives and abortifacients. These regulations were challenged in court under the Religious Freedom Restoration Act of 1993, which protects against a substantial infringement of religion under a neutral and generally applicable law unless the government has a compelling reason and uses the least intrusive means.³ Eventually, after the Supreme Court ruled that the RFRA applied to small businesses as well as nonprofits, the religious organi-

¹ Alex M. Azar II, Remarks at the Blair House, January 16, 2020, <https://www.hhs.gov/about/leadership/secretary/speeches/2020-speeches/remarks-at-the-blair-house.html>.

² I have extensively discussed all the developments concerning the mandate in many prior columns of the Washington Insider.

³ Religious Freedom Restoration Act of 1993, Pub. L. 103-131, 107 Stat. 1488 (1993), §2(a)(2) and (3), §3(a) and (b)(2).

zations successfully secured injunctions in the lower federal courts against enforcement of the mandate. The Trump administration subsequently issued regulations ratifying these results.

That should have ended the matter. However, litigation continued. Challengers claimed that the new regulations were invalid because they had not been adopted in compliance with the Administration Procedure Act, which requires certain periods of notice and comment by interested parties before regulations are issued. The federal courts in Pennsylvania agreed and reapplied the Obama-era regulations to the Little Sisters.

The court found that the Little Sisters did not meet the requirements of the RFRA for protection from the Obama regulations and thus had to comply with them. Consequently, the Little Sisters appealed to the Supreme Court. The issues before the Court, whenever they are argued, will involve whether the Trump-era regulations are valid. If they are, the Little Sisters will be protected. Even so, they will be protected only for the duration of the Trump administration. Since every administration can change its regulations, a subsequent administration that does not wish to exempt the Little Sisters (and other religious organizations) could reinstitute the Obama-era regulations. The only way to avoid that is for the Court, finally, to address the RFRA question and decide that its provisions protect religious organizations in this context.

This would put the entire matter (involving endless litigation since 2011) to rest for this administration and for any that follow. Given a conservative majority on the Court that favors robust protection for religious freedom, it is to be hoped that the Court will take the opportunity to decide the RFRA issue decisively in favor of the Little Sisters.

Usually the Court announces its most controversial decisions on the last day of the term and then leaves town for the summer. Usually the term concludes at the end of June. However, it is unclear this year whether the term will end as usual; the Court might stay in session throughout the summer.

In any case, a decision that is likely to come on the last day of the term, whenever that is, is *June Medical Services v. Russo* (formerly *June Medical Services v. Gee*). This is the most important abortion case to come to the Court since 2016, when it decided *Whole Women's Health v. Hellerstedt*, which was announced on the last day of that term.¹ *June Medical* involves a law in Louisiana that requires abortionists to have admitting privileges at a local hospital. A similar law in Texas was the subject of *Hellerstedt*. In that case, the Supreme Court struck

¹ For a more in-depth consideration of these issues, see William L. Saunders, "Abortion Comes to the Supreme Court: High Court Will Review Case on Louisiana Law," *National Catholic Register* (October 17, 2019), <https://www.ncregister.com/daily-news/abortion-comes-to-the-supreme-court-high-court-will-review-case-on-louisian>.

down the state law. What has changed in the interim is the composition of the Court.

When *Hellerstedt* was decided, the Court had only eight members: Justice Antonin Scalia had died and had not been replaced. The decision was five to three; the five voting to strike down the Texas law were Anthony Kennedy, Ruth Bader Ginsburg, Stephen Breyer, Elena Kagan, and Sonia Sotomayor. The three voting against it were John Roberts, Clarence Thomas, and Samuel Alito. Since then, Neil Gorsuch replaced Scalia, and Kennedy retired and was replaced by Brett Kavanaugh. Thus the Court, which had a liberal majority when it decided *Hellerstedt*, now has a conservative majority. It seems reasonable to think the conservatives wish to modify or reverse the previous decision.

Hellerstedt itself had been a departure from the Supreme Court's 2007 decision in *Gonzales v. Carhart*. *Gonzales* had, for the first time since *Planned Parenthood v. Casey* in 1992, made plain that statutes regulating abortion were to be treated, as were laws in all other areas of life, with a presumption of constitutionality. Nonetheless, *Hellerstedt* struck down the Texas law despite extensive findings by the Texas legislature. In dissent Justices Alito, Thomas, and Roberts noted dissatisfaction with the test employed by the majority, which asked if the law created an "undue burden" on women seeking abortion (a test originally announced in *Casey*). They felt such tests were created chiefly to make it easier for abortion proponents, unique of plaintiffs in other areas of law, to challenge state laws restricting abortion. Thus it is possible the Court will now reject the undue burden test, subjecting abortion laws to the same standard as other laws, that of "rational basis." In other words, if a law has a rational basis – which would be proved if a legislature held hearings and so on – it will be upheld. That would be a revolution in abortion law. It would mean that most, if not all, state restrictions, instead of being struck down by liberal judges under the undefined undue burden analysis as has happened regularly since *Casey*, would be upheld.

If the Court does not go that far, it appears likely that it will at least address the "standing" rules applying to abortion cases. Again, unlike in other areas of law, the courts have allowed abortion clinics to challenge state restrictions on behalf of women who cannot get abortions, so-called third-party standing. In most areas of law, standing rules require that the plaintiff have an actual injury from the law at issue – no one else can stand in for him or her. If a woman were required to sue on her own behalf when, and if, she is injured (for example, if a woman wants an abortion but cannot get one because of a law requiring the abortionist to have admitting privileges), the number of suits would drop drastically. Similarly, in most areas of the law, facial challenges are not permitted (challenging the law before it goes into effect). Rather, suits proceed on an as-applied basis. This is a prudential approach that reduces the caseload for courts, because a lawsuit is

permitted only when there is an actual dispute under a law as applied to a particular person. Again, it seemed *Gonzales* had applied this to the abortion context, but *Hellerstedt* seemed to hold to the contrary. It is to be hoped the decision in *June Medical* will make it clear that, as is usually the case in other litigation, abortion challenges must be as-applied, not facial.

Thus it should be clear that many pro-life issues are at stake in *June Medical*, which has an opportunity to correct *Hellerstedt*. Hopefully, oral argument in the case, which is scheduled for the end of April, will proceed.

From the Editor's Desk: On Cultural Marxism

*Joseph W. Koterski, S.J.**

BESIDES PROVIDING numerous and often unexpected opportunities for practical charity, the restrictions on normal activities during the pandemic have offered us time to take up some of the books we always meant to read. One of the best that I have found is *Witness* by Whittaker Chambers.¹ It is valuable not only for the insight it gives into the notorious case of Alger Hiss, but for the light it shines on such questions as why people become marxists, communists, or social revolutionaries.

One may never have had the chance to travel to places like Venezuela or Cuba, but even a modest acquaintance with the history of the twentieth century makes clear the failures of classical marxism. Yet, to voice such a thought in academic circles is generally taken to be illiberal. And it is not only remarks about marxism as such that draw this sort of ire. To assert that marriage is possible only between a man and a woman is taken as if it were an attack on the rights of oppressed minorities and a violation of the standards of civility required for public reason in democratic society. To hold that felons should not have the right to vote often gets labeled as undemocratic. It is not rare to be suspected of disregarding transgender rights if one dares to say that men and women are intrinsically different and that our genetic makeup cannot be altered by surgery. Interestingly, however, it is in this last sphere that we are starting to find some significant push back against the dysfunctional academic establishment when the parents of athletic daughters start to rebel against intruders in their school track meets.

In these and related matters, there are genuine differences that ground the distinctions. These differences provide the reasons that need to be voiced and should not be silenced by political correctness and the hermeneutics of suspicion. As Alexis de Tocqueville noted in *Democracy in America*, there is in democracy a tendency to love equality more than liberty and to seek equality of outcome more than equality of opportunity, even if doing so means that democracies undermine themselves by turning to socialism and to coercive social programs that

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¹ Whittaker Chambers, *Witness* (Washington, D.C.: Regnery, 1952).

redistribute wealth from the rich to the poor.

What links these varied issues is the worrisome phenomenon of today's cultural marxism. The terminology here is tricky, but the danger is real. Its adherents often claim other labels for themselves, but the actual positions they take seem to me to justify the use of this common designation. Where classical marxism focused on capitalist economics and championed class warfare between the proletariat and the bourgeoisie, cultural marxism has broadened its perspective to champion the cause of various "oppressed minorities" in their struggle against "majorities" and "privileged" groups that are deemed their "oppressors."

The term thus refers to a broad movement that advocates revolutionary social transformation of many types. Its intellectual roots are to be found in such figures as Herbert Marcuse, Theodor Adorno, and other thinkers of the Frankfurt School that generated an approach called "Critical Theory" to address the perceived shortcomings of classical marxism. The influence of this approach is manifest in the political campaigns of figures like Bernie Sanders and Alexandria Ocasio-Cortez.

Why do so many people – not only academics but well-meaning people in general, and in a curious way, so many religious – not see marxism, whether in its classical form or in present-day cultural marxism (what Roger Scruton called "reconstituted marxism"¹) as problematic?

Reading Chambers's *Witness* put this question for me in a new way. About halfway through the book there is a very endearing scene. In 1934 Chambers was directed to take up a crucial role in the underground "apparatus" that had been set up in Washington, D.C., to infiltrate important sectors of the American government. To be close to his operatives and yet to find more affordable housing than was available in a city then choked by the influx of those who had come to administer President Franklin Delano Roosevelt's New Deal programs, Chambers chose to move his young family from New York to Baltimore.

Shortly after moving in, he was advised by the landlord to hire "a colored girl" to help with their new baby. What was apparently a common practice in "Charm City" immediately raised questions for Chambers and his wife: as communists, was it right for them – indeed, for anybody – to employ servants at all? "The answer was, of course, that a servant is a worker like any other, and workers live by working. Much more serious was another question: how could we in conscience pay the shockingly low wages paid in those days to such help we had in mind?" (357).

Even after deciding to pay a little more and despite his fear of the questions

¹ Roger Scruton, *Fools, Frauds, and Firebrands: Thinkers of the New Left* (London: Bloomsbury, 2015).

that doing so might cause, there was a further issue on which Chambers felt he could not compromise: “What should our conduct be toward Negroes whom I, as a communist, insisted on treating in every way as equals?” (358). He decided that they must take their meals at the same table with their new maid, Edith Murray, and in all other ways treat her as someone who worked with them rather than for them. Regardless of the embarrassment that she felt, this became the household’s practice. For Chambers, who had become a Christian by the time of writing this book, the episode was revealing:

In any case, what we had to give her was not a place at our table. What we had to give her was something that belonged to her by right, but which had been taken from her, and which we were merely giving back. It was her human dignity. Thus, by insisting on acting as Communists must, we found ourselves unwittingly acting as Christians should. I submit that this cuts to the heart of one aspect of the communist appeal. (358)

The last sentence in this passage speaks volumes. In many of those who have lost the spark of religious faith, there still remains certain elements of the earlier formation of their consciences. In reading passages like this in *Witness*, we can better understand how Chambers’s attraction to communism was similar to what has drawn so many people in our day toward figures like Sanders or Ocasio-Cortez. Even where real love for Christ and his Church that are the source of reliable conscience-formation has waned, many have retained from earlier training a sense of the need to respect human dignity, to have compassion for the indigent, and to care for the suffering. Where the Gospel of Jesus Christ urges us to these tasks precisely for love of God and of all whom God loves, the social gospel of marxism and liberation theology preaches them as a way to honor the demands of conscience without the perceived clutter of religion and free of its burdens.¹ Curiously, then, there is reason to think that the remnants of Christian conscience formation is an important source of the attraction that some people feel toward marxism and various forms of socialism. As has so often been true in the history of Christianity, if only we lived our faith better, there would be much greater love for Christ and the Church and other people.

Chambers’s point in this particular vignette is at one with the general thesis of the book as a whole: communism is a faith, and the source of its attraction is its vision of a pressing problem. At the root of conversion to marxism for many people is a sense that the world is sick and needs to change. Whatever their own political commitments, various pop culture figures have voiced this precise sentiment in recent days. While other forces in the world seem to have lost the

¹ See, for example, Enrique Dussel, “Liberation Theology and Marxism,” trans. Irene B. Hodgson & José Pedrozo, *Rethinking Marxism* 5, no. 3 (1992): 50-74.

power to inspire conviction and to demand sacrifice, new forms of cultural marxism have inspired devotion.

For me, what Chambers explains, perhaps better than anyone else that I know, is why people become marxists. It is not that they are stupid or morally depraved. It is not that they have heard nothing about the horrors of various communist regimes. In fact, part of the strategy of the Frankfurt School and Critical Theory has been to mount parallel criticisms of capitalism and of Soviet socialism, as if they are somehow on par.¹

Even when crimes on a scale unparalleled in human history are acknowledged as part of the public record, many educated and well-meaning people adopt it on the presumption that such crimes are a thing of the past and that its ideals can now take purified form. Violence on a smaller scale gets excused as an inescapable tactic for bringing down oppressive structures of law and order in the name of social transformation. Those who loot shops and tear down statues forget that these shops and these monuments actually belong to specific individuals and to specific communities. But what is worse is the mischief of the fourth estate (the media – in the days of the Jacobins, the press) when it incites or approves mob rule and forgets the need for cultivating self-governance and the moderation of passions that makes possible a legal and social order that includes protections for a free press.

According to Chambers, many of those who joined the Communist Party or its unofficial underground did so “chiefly for moral reasons” (8). As a kind of faith, cultural marxism makes an appeal that goes far beyond anything in the writings of Marx and Lenin, beyond the vagaries of dialectical materialism, beyond the labor theory of value and the theory of the general strike. In ways that never cease to surprise, educated people have regularly found it possible to overlook the use of secret police, re-education camps, and the techniques employed for arranging a coup d’état when they become convinced that only the human mind is capable of changing a world that badly needs changing.

For some people, the connection that I have drawn here between marxism, socialism, and communism will be questioned, if not rejected outright. But tempting as it is to excuse coercive practices in our own day and to label only the use of totalitarian techniques as excesses, there is something instructive about examining the rationalizations used for justifying coercive measures in times of crisis. One can detect disturbing similarities in the curtailment of civil liberties in

¹ There have been many fine books that trace the strategy and tactics of Critical Theory, including: Carl Boggs, *Social Movements and Political Power: Emerging Forms of Radicalism in the West* (Philadelphia: Temple Univ. Press, 1986) and Paul Edward Gottfried, *The Strange Death of Marxism: The European Left in the New Millennium* (Columbia, MO: Univ. of Missouri Press, 2005).

the current pandemic and in the campaign of the People's Republic of China to rein in the protest movement in Hong Kong.

Chambers offers a deeper way to understand the danger by contrasting a materialist vision with a theistic one:

The Communist vision is the vision of Man without God. It is the vision of man's mind displacing God as the creative intelligence of the world. It is the vision of man's liberated mind, by the sole force of its rational intelligence, redirecting man's destiny and reorganizing man's life and the world. It is the vision of man, once more the central figure of the Creation, not because God made man in His image, but because man's mind makes him the most intelligent of the animals.... Communism restores man to his sovereignty by the simple method of denying God. (9-10)

Paradoxically, the practicality of this materialistic vision makes it possible to rationalize all sorts of bloodletting out of a conviction that this will end "the bloody meaninglessness of man's history." For Chambers, the tools that it turns into reality are wonderful products of the mind that God gave to humanity: science and technology. What makes these disciplines useful for the realization of the marxist vision is an intrinsic aspect of the method that makes them so powerful, no matter the purpose for which they are used: "the rigorous exclusion of all supernatural factors in solving problems" (11). Like all great revolutions, the marxist vision occurs in the human mind long before it is manifest in action. Revolutions, conspiracies, lies, innuendo – all these are merely methods for realizing the vision and would have no meaning apart from the end they serve. Realizing the marxist vision requires a faith not in God but in the future as what gives people the strength to struggle against the inertia of the past that they find embodied in social, political, and economic forms that block the road to humanity's next great forward stride.

It is precisely from his own years in the communist movement that Chambers came to grasp the nature of the basic marxist vision so clearly and to see through its elaborate rationalizations regarding the unrestricted use of power and violence. What makes marxist regimes work, he shows again and again in *Witness*, is the fear that they cultivate. It was precisely in recognition of the paralyzing force of fear that Pope John Paul II was intent upon countering with his resilient message of "Be Not Afraid" during his first trip back to his Polish homeland in 1979 and then countless times in his speeches and writings for the rest of his papacy.

Although the appeal of marxism for many people is based not so much on abstract doctrines as on situations of desperation and on a summons to offer one's total dedication to an ideal, it remains important to understand its tenets intellectually, especially for the sake of making a sound comparison with the free institutions that we cherish. At issue are not only the hearts but also the minds of

individuals.

During the period about which Chambers wrote – the period of the Great Depression, the Second World War, and the Cold War – marxist communism operated from Russia as a home base. Marx formulated his general laws of history in nineteenth-century conditions, but even if the specific sort of capitalism that he was discussing, to a great extent, no longer exists, the principles that he articulated have guided generations of marxists as the range of interest has grown and shifted. The infiltration into America began with refugees from the Frankfurt School who fled Nazi Germany in the 1930s and settled in New York, at Columbia University and other institutions of higher learning. Although they did not believe that a communist revolution could easily succeed in a country like the United States, they proposed a “long march through the institutions” of American society – government, religion, media, education, entertainment and religion – as a way to create the conditions necessary for revolution and social transformation.

Coming to a deeper grasp of the dangerous phenomenon of cultural marxism may well involve the study of texts that are far from our own penchant in matters of intellectual concentration. One of the crucial sources, I think, is Herbert Marcuse’s essay “Repressive Tolerance.”¹ An original member of the Frankfurt School, he writes in this essay about the need for intolerance of traditional perspectives as oppressive. He stresses the importance of censoring conservative viewpoints and working carefully to diversify the curriculum, precisely so as to subject every form of traditional social norm to critique while championing post-colonialism, radical feminism, and an openness to diverse sexual orientations and sexual experimentation. In that essay he outlines many of the items that are now standard parts of agenda pursued in academic institutions. Given the veneration nowadays paid to the notion of the tolerance of difference, it would be interesting to bring Marcuse’s essay on intolerance to broader attention. But even that might not help, if the desire for a certain outcome makes one blind to the performative contradiction involved in tolerating intolerance.²

Another important source with which to become acquainted is a pair of volumes edited by Theodor Adorno under the title *The Authoritarian Personality*.³ It has been an extremely influential text in social and political psychology, and his

¹ Herbert Marcuse, “Repressive Tolerance,” in *A Critique of Pure Tolerance*, ed. Robert Paul Wolff (Boston: Beacon Press, 1965).

² On this point, a friend has reminded me about Avicenna, who wrote that anyone who denies the law of non-contradiction should be beaten and burned until he admits that to be beaten is not the same as not to be beaten and that to be burned is not the same as not to be burned. See Avicenna, *Metaphysics*, I, commenting on Aristotle, *Topics* I.11.105a4–5.

³ Theodor W. Adorno, *The Authoritarian Personality*, in collaboration with Betty Aron, Maria Hertz Levinson, and William Morrow (New York: Wiley, 1964 [1950]).

own essays are studies in taking the normal constituents of personal identity, such as parenthood, pride in one's family, love of one's own country, love for God, and even adherence to traditional gender roles as pathological phenomena. For alternative stances to be encouraged, he notes the need for such traditional parts of self-identity to be handled as culturally created norms rather than as natural manifestations of personal maturity.

In much of the literature of this sort, cultural marxism requires the cultivation of suspicion about common language and the redefinition of terms. Not long ago, for instance, we saw the studied efforts at redefining "family" and more recently the redefinition of "marriage." As scholars, it is not enough for us to notice these cultural trends. It can be extremely helpful to point out to students and to write in our essays about the organized campaigns of the theorists who devised these innovations, if only to show that they are efforts at propaganda. In the pro-abortion movement, of course, we have seen this sort of semantic gymnastics, as William Brennan showed at length in his book *Dehumanizing the Vulnerable*.¹

There is also much to learn from Pope Benedict XVI's sophisticated strategy for handling the hermeneutics of suspicion by his carefully crafted responses to Freud, Marx, and Nietzsche, the great masters of suspicion, in the first of his encyclicals, *Deus caritas est*.

In more traditional forms of scholarly argument, one tends to provide a clear thesis, well-defined terms, a formal argumentation, and an array of evidence for the thesis under discussion. When one disagrees with arguments of this type, one needs either to attack the validity of their reasoning or the truth of their premises or the adequacy of the evidence. But the distinctive feature of the masters of suspicion is to raise suspicions about the motives of their opponents by making charges whose plausibility rests more on resentment than on evidence or argument. In such a strategy, the rhetorical power arises from putting one's target on the defensive. If the one attacked makes only a modest response, it can seem that the accused is really guilty and simply incapable of mounting any more of a defense. On the other hand, a vigorous response can easily suggest that one is just trying to hide something under the very energy of the reply. Benedict tries to find a middle course. He offers an extremely clear but rhetorically modest explanation of Catholic doctrine that exposes the misrepresentations that are invariably part of the smokescreen laid down by the masters of suspicion. He then provides stories of a number of Catholic saints and martyrs whose sacrifices are above suspicion.

In this way *Deus caritas est* counters Freud's attacks on Christianity's

¹ William Brennan, *Dehumanizing the Vulnerable: When Word Games Take Lives* (Chicago: Loyola Univ. Press, 1995).

alleged fear of eros by explaining the authentic Christian view of sexuality and love (§§2-18). He counters the marxist use of resentment (for example, in the famous phrase “religion is the opium of the masses”) by admitting what Marx has right in his social critique while noting where Marx went wrong (§§26-28, 31). Third, he attacks the nihilism of Nietzsche’s perspectivalism in taking all truth claims merely to be assertions of power and in denying the possibility of objective (let alone eternal) truths on the ground everyone must speak from some standpoint within some history and culture (§§28-29).

There is, of course, a kind of performative contradiction involved in perspectivalism, for it claims to offer a generally valid explanation even though this position is rooted in the claim that no generally valid explanation is ever possible. The stories about Mother Teresa, Don Bosco, and Vincent de Paul (§§36, 40) add not only a human touch but an unanswerable set of examples that the suspicions raised against Christianity are groundless. These stories also provide memorable support for the important distinction that Benedict champions throughout *Deus caritas est*, namely, the distinction between justice and charity. A Christian’s obligations in charity, after all, go far beyond any obligations of justice, but the source of the obligation is entirely different. The obligations of justice arise from the natural law of giving to another what is due. The obligations of charity arise from God’s command that we love our neighbors as ourselves and give to those in need. This is a distinction often lost in the treatments of “social justice” by the proponents of cultural marxism and one that is regularly mishandled in treatments of Catholic social teaching.

What may we hope for? In Christ rests our deepest hope. In Chambers’s *Witness* we have an account not only of the factors that led to his conversion to marxist communism but also of the events that led him out of it and back to Christ. By reason of its purpose as a defense of his own truthfulness, much of the volume is given to reporting the details of life in the Communist Party and life in the underground. But at just the right points in his narrative we also find a penetrating account of what led him away from that life. Part of the story is the growing horror of friends who were lost in the regular cycle of Moscow-ordered purges. But an even more deeply telling part is highlighted by being given its own short but independent section.

Called “The Child,” this portion of the narrative recounts the time in early 1933 when his wife told Chambers that she thought she had conceived. It was, he explains, taken for granted in the movement that it was morally wrong for “a professional revolutionist” to have children, and abortion was a commonplace of party life. “Abortion,” he writes, “which now fills me with physical horror, I then regarded, like communists, as a mere physical manipulation” (325). Further, in the background for Chambers was the spectre of what his brother had said just before

his suicide: “For one of us to have a child would be a crime against nature” (325).

When his wife came back from her checkup, she reported in a quiet and noncommittal way that the doctor said that she was in good physical shape to have a baby. The truth slowly dawned on him: “Do you mean,” he asked her, “that you want to have the child?” Bursting into tears, she pleaded with him: “we couldn’t do that awful thing to a little baby, not to a little baby, dear heart.” As wild joy swept over him, “reason, the agony of my family, the Communist Party and its theories, the wars and revolutions of the twentieth century, crumbled at the touch of the child.... If the points on the long course of my break with Communism could be traced, that is probably one of them.... The child we all yearn for..., even before her birth, had begun, invisibly, to lead us out of that darkness which we could not even realize, toward that light, which we could not even see” (326-27).

The Assault on Freedom of Conscience and Religion in Canada

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James Kent Donlevy^{**}

ABSTRACT: This paper raises the alarm at the professional and governmental coercion of Canadians' freedom of conscience and religion, which are ostensibly protected by the Canadian Charter of Rights and Freedoms. The paper provides professional and institutional examples of that coercion, illuminates its socio-political context, and briefly reflects on freedom of conscience and its importance to modern society.

ON APRIL 13, 1534, SIR THOMAS MORE was called to appear before a parliamentary commission and swear his allegiance to the British Act of Succession.¹ He refused. Although he acknowledged Parliament's secular power to name Anne Boleyn as the Queen of England and her daughter Elizabeth as the successor to the English Crown, he could not in good conscience swear the oath that was part of the act. The oath proclaimed the supremacy of the English Crown over the Catholic Church in England. Thus, it also gave legal jurisdiction to the king to divorce his first wife, Catherine of Aragon, regardless of the pope's refusal to agree to an annulment.

In the play *A Man for All Seasons* More's dear friend the Duke of Norfolk pleaded with him to take the oath:

Norfolk: Oh, confound all this Thomas.... I'm not a scholar...and frankly I don't know whether the marriage was lawful or not. But damn it..., look at those names.... You know those men! Can't you do what I did, and come with us, for fellowship?

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¹ Over 450 years later, in 2000, Pope John Paul II would declare him the patron saint of statesmen and politicians. Apostolic letter issued *motu proprio* proclaiming St. Thomas More patron of statesmen and politicians (31 October 2000), available at https://w2.vatican.va/content/john-paul-ii/en/motu_proprio/documents/hf_jp-ii_motu-proprio_20001031_thomas-more.html.

More: And when we stand before God, and you are sent to Paradise for doing according to your conscience, and I am damned for not doing according to mine, will you come with me, for fellowship?¹

More's case illustrates a state exercising its coercive power to compel its citizens to publicly state their support for its actions and hence the values that underlie them, regardless of whether their citizens agree with those values. Failure to show public support would result in a penalty. In Canada we find that some professional associations and provincial and federal governments prescribe that citizens express their agreement with expressed or implied secular values in order to be allowed to participate fully in Canadian society.² This is done at the cost of denying the *imago Dei* and the natural moral law and by embracing a Kafkaesque culture of death and despair through the exercise of what one Canadian bishop has called the exercise of totalitarian authority.³

This paper has three parts. The first outlines significant professional and institutional legal challenges to freedom of conscience and religion in Canada. The second uses the facts and arguments in the court decisions described in part one as foils to illuminate the current socio-political context of the attack on those freedoms. The third reflects briefly on the future of those rights in Canadian society.

1. *Professional and Institutional Legal Challenges*

The *Canadian Charter of Rights and Freedoms* constitutionally enshrines fundamental freedoms for all people in Canada. Those freedoms include freedom of conscience and religion as well as (among other things) belief, thought, expression, opinion, and association. Those rights are not absolute.⁴ They are

¹ Robert Bolt, *A Man for All Seasons* (Oxford: Heinemann, 1996 [1960]), 78.

² As in the case of More, the legal maxim *qui tacet consentire videtur* (silence gives consent) does not protect one against a government or a professional association whose mantra is "resistance is futile."

³ B. Fraga, "Canadian Bishops Warn of 'Totalitarianism' as Gender Agenda Forced on Schools," *National Catholic Register* (27 January 2016), available at <http://www.ncregister.com/daily-news/canadas-collective-confusion-hits-schools-calgarys-bishop-addresses-gender>.

⁴ See also *Canadian Charter of Rights and Freedoms*, s 7, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c11, available at <https://laws-lois.justice.gc.ca/eng/const/page-15.html>. See sections 33 (the notwithstanding clause) and 29 (protection for Catholic separate schools), as well as sections 55, 56, and 90 (the disallowance power) under the Constitution Act (1867). The latter provides that any Act of a provincial legislature must be promptly sent to the governor general and that the governor general-in-council (federal cabinet) may disallow any such Act within one year. In every province except Prince Edward Island and Newfoundland, 112 provincial Acts

subject to (among other Charter provisions) section 1, which states: “The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”

This part examines two cases and explicates the challenges to the Catholic faith. The first case is an example of members of a professional association being compelled by that association to act contrary to their conscience.¹ The second case is an example of the state compelling religious institutions, in effect, to accept an ideology that is contrary to their religious faiths.²

The Professional Challenge: The College of Physicians and Surgeons of Ontario

The Province of Ontario is a hot house for professional associations demanding compliance with secular values that are antithetical to those of the Catholic faith. In 2015 and 2016 the College of Physicians and Surgeons of Ontario (CPSO) enacted two policies, under the Medicine Act³ and the Regulated Health Professions Act (1991),⁴ requiring doctors to refer patients to another doctor for assistance with medically assisted death and abortion services. The doctors challenging these policies argued that the effective referral requirement infringed their right under section 2(a) of the Charter to freedom of conscience and religion,⁵ on the grounds that making referrals would make them complicit in an action contrary to their conscience and their religious beliefs. Further, they argued that beyond the breach of those fundamental freedoms, CPSO was also in breach of their section 15 Charter right not to be discriminated against on account of their religious beliefs.⁶

have been disallowed for a variety of reasons: they were considered unconstitutional; contrary to Dominion policy or interest; or contrary to reason, justice, and natural equity. The last disallowance by the federal government was in 1943, when the Alberta legislature passed a law against Hutterite farmers limiting their acquisition of provincial land.

¹ *The Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario*, 2019, ONCA 393, available at <https://www.canlii.org/en/on/onca/doc/2019/2019onca393/2019onca393.html>

² *P.T. et al. v. Regina*, 2018, Alta Q.B., available at https://www.jccf.ca/wp-content/uploads/2018/04/Binder2_b24.pdf.

³ Medicine Act, 1991, S.O. 1991, c.30, available at <https://www.ontario.ca/laws/statute/91m30>.

⁴ Regulated Health Professions Act, 1991, S.O. 1991, c. 18 (RHPSA), available at <https://www.ontario.ca/laws/statute/91r18/>.

⁵ Under section 2, everyone has the following fundamental freedoms: (a) freedom of conscience and religion; (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; (c) freedom of peaceful assembly; and (d) freedom of association (*Canadian Charter*, 1982).

⁶ Section 15 reads: “(1) Every individual is equal before and under the law and has

The first policy statement, entitled “Professional Obligations and Human Rights,” stated, *inter alia*:

Where physicians are unwilling to provide certain elements of care for reasons of conscience or religion, an effective referral to another health-care provider must be provided to the patient. *An effective referral means a referral made in good faith, to a non-objecting, available, and accessible physician, other health-care professional, or agency.* The referral must be made in a timely manner to allow patients to access care. Patients must not be exposed to adverse clinical outcomes due to a delayed referral. Physicians must not impede access to care for existing patients, or those seeking to become patients.¹

The College then adopted Policy Statement No. 4-16, entitled “Medical Assistance in Dying,” which stated, *inter alia*:

Where a physician declines to provide medical assistance in dying for reasons of conscience or religion, the physician must not abandon the patient. An effective referral must be provided. *An effective referral means a referral made in good faith, to a non-objecting, available, and accessible physician, nurse practitioner or agency. The referral must be made in a timely manner to allow the patient to access medical assistance in dying. Patients must not be exposed to adverse clinical outcomes due to delayed referrals.*²

The CPSO provided some guidance on compliance, defining an effective referral as “taking positive action to ensure the patient is connected to a non-objecting, available, and accessible physician, other health-care professional, or agency.”³ Although noncompliance with the policies would not constitute professional misconduct, the Court of Appeal noted that they “establish expectations of physicians’ behaviour and are ‘intended to have normative force.’ As such, they may be used as evidence of professional standards in support of an allegation of

the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability” (*Canadian Charter*, 1982).

¹ College of Physicians and Surgeons of Ontario (March 2015), Policy Statement #2-15: “Professional Obligations and Human Rights,” p. 5 (emphasis added by the Court of Appeal, *Christian Medical and Dental Society* (2019), par. 18), available at <https://www.fasken.com/Policy-Statement-Human-Rights-2-15>.

² College of Physicians and Surgeons of Ontario (2016), hereafter CPSO 2016a. Policy Statement #4-16: “Medical Assistance in Dying,” p. 5, emphasis added by the Court of Appeal, *Christian Medical and Dental Society* (2019), par. 23, available at <http://eol.law.dal.ca/wp-content/uploads/2018/07/medical-assistance-in-dying-2.pdf>.

³ CPSO 2016a, Definitions Section, par. 2.

professional misconduct.”¹ The Court of Appeal also found it noteworthy that

in the case of both Policies, the referral can be made...[by] someone other than a physician..., [for example,] a staff member who is not a physician, ...[but that] objecting physicians regard providing an effective referral as complicity in the procedure itself and, therefore, sinful.²

The Ontario divisional court found that although the doctors’ freedom of religion was infringed, “the infringement is justified under s. 1 of the Charter, because the Policies are reasonable limits, demonstrably justified in a free and democratic society.”³ The divisional court did not consider freedom of conscience and dismissed the section 15(1) claim outright.

The doctors appealed to the Ontario Court of Appeal, with their core submission being that “the Policies impose an unnecessary and therefore unreasonable limit on their religious freedom.” They argued that

a direct, individualized referral is unnecessary, because reasonable alternatives can achieve the same result, while respecting their freedom of religion. Providing readily-available, generalized health care information and a referral to...other informational resources strikes a reasonable balance between religious freedom and equitable patient access to health care.⁴

Moreover, they submitted that

the Divisional Court erred in its s. 1 analysis, because: (1) there is no rational connection between the Policies and the objective of promoting equitable access to health care; (2) mandatory, individualized referral does not satisfy the minimal impairment branch of the proportionality analysis and does not fall within a range of reasonable alternatives; and (3) the Divisional Court’s balancing of the salutary and deleterious effects of the Policies was flawed by its erroneous assumption that objecting physicians can insulate themselves from the conflict with their religious beliefs by changing their specialty or sub-specialty.⁵

In turn, the CPSO reiterated its winning trial argument and argued a complex administrative law issue, which was not determinative.⁶ The appeal court

¹ *Christian Medical and Dental Society*, 2019, par. 17.

² *Christian Medical and Dental Society*, 2019, par. 27.

³ *Christian Medical and Dental Society*, 2019, par. 5.

⁴ *Christian Medical and Dental Society*, 2019, par. 53.

⁵ *Christian Medical and Dental Society*, 2019, par. 54.

⁶ The argument was that the divisional court had come to the correct conclusion but erred in its analysis, as it had applied the correctness standard rather than the reasonableness standard. The Supreme Court of Canada had decided the issue on December 19, 2019, in *Canada (Minister of Citizenship and Immigration) v. Vavilov* 2019 SCC 65,

concluded that, among other things, the policies did infringe upon the doctors' right to freedom of conscience and religion. The interference was not, as the CPSO argued, "trivial and insubstantial."¹ Rather, the doctors "all have a sincere religious belief that human life is sacred, that abortion and MAiD [medical assistance in dying]² are sinful, and that complicity in either practice, in the manner required by the Policies, is equally sinful."³ The court stated that the doctors' "religious faith is central to their identities and their religious beliefs are sincerely held"⁴ and that "providing a patient with an effective referral to a physician who provides MAiD or an abortion would be the same as performing the medical procedures themselves. It would make them complicit and would be sinful."⁵ The court found that these claims were "supported by the evidence of expert theologians and ethicists who deposed that the act of referral is a form of direct cooperation in the act which makes the physician complicit."⁶

Under section 1, the onus was on the CPSO to establish "on a balance of probabilities, that the infringement...[was] a reasonable limit, demonstrably justified in a free and democratic state."⁷ Applying the Oakes Test (see the Appendix), the Court of Appeal found that the Charter did apply to a regulatory agency, such as the College, "to the extent that its activities can be said to be governmental in nature."⁸ The court's rationale was that where a policy is "authorized by statute and sets out a general norm or standard that is meant to be binding and is sufficiently accessible and precise, the policy is legislative in nature and constitutes a limit that is 'prescribed by law'."⁹

Further, the objectives of the policies were "sufficiently important to warrant limiting a constitutional right or freedom."¹⁰ The divisional court's position was that the purpose of the policies was "the facilitation of equitable [patient] access to [health care] services."¹¹ The appeal court found that position to be

an amalgam of the purpose identified by the appellants ("ensuring access to health care") and by the College ("the protection of the public, the prevention of harm to patients, and

available at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/18078/index.do>.

¹ *Christian Medical and Dental Society*, 2019, par. 54.

² This reference is to the *Criminal Code* (1985), Section 241.2(1).

³ *Christian Medical and Dental Society*, 2019, par. 66.

⁴ *Christian Medical and Dental Society*, 2019, par. 67.

⁵ *Christian Medical and Dental Society*, 2019, par. 68).

⁶ *Christian Medical and Dental Society*, 2019, par. 70.

⁷ *Christian Medical and Dental Society*, 2019, par. 97.

⁸ *Christian Medical and Dental Society*, 2019, par. 99.

⁹ *Christian Medical and Dental Society*, 2019, par. 99.

¹⁰ *Christian Medical and Dental Society*, 2019, par. 100.

¹¹ *Christian Medical and Dental Society*, 2019, par. 101.

the facilitation of access to care for patients in our multi-cultural and multi-faith society”).¹

When the appeal court looked at the doctors’ alternative suggestions of self-referral by patients or the “generalized information model,” it held that

the evidence shows that the appellants’ “generalized information” model, like other “self-referral” models, will impair equitable access to health care rather than promote it. It will impair equitable access to health care because it will enable objecting physicians to abandon their role as patient navigators without an appropriate transfer of the patient to another physician or service. In view of the vulnerability of the patients, this is just not adequate.²

On balancing the salutary and deleterious effects of the policies, the proportionality analysis, the appeal court found that the overall effects of the law on the appellants was not disproportionate to the College’s objectives. The court quoted Chief Justice McLachlin in the *Alberta v. Hutterian Brethren* case,³ where she said that it was necessary to take full account of the “severity of the deleterious effects of a measure on individuals or groups.”⁴ That accounting had to consider “equitable access to MAiD, abortion and other services and reduce or eliminate barriers, delays, anxiety and stigmatization of vulnerable patients in circumstances in which their physicians object to the services on grounds of religion or conscience.”⁵ The appeal court acknowledged that

the deleterious effects of the requirements for objecting physicians are the burden and anxiety associated with a choice between their deeply-held religious beliefs and complicity in acts which they regard as sinful.... [Some would be] faced with the additional burdens of choosing between leaving the field of medicine in which they practice, leaving Ontario to practice elsewhere, or leaving the practice of medicine altogether.⁶

Notwithstanding these concerns, the appeal court stated that patients had a section 7 Charter right to “equitable access to lawful and provincially-funded health care services [whereas]...physicians have no right to practice medicine, let alone a constitutionally-protected right to do so.”⁷ Moreover, “Ontario physicians practice in a single-payer, publicly-funded health care system, which is structured around

¹ *Christian Medical and Dental Society*, 2019, par. 101.

² *Christian Medical and Dental Society*, 2019, par. 160.

³ *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, [2009] 2 S.C.R. 567, at par. 76, available at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7808/index.do>.

⁴ *Christian Medical and Dental Society*, 2019, par. 162.

⁵ *Christian Medical and Dental Society*, 2019, par. 164.

⁶ *Christian Medical and Dental Society*, 2019, par. 165.

⁷ *Christian Medical and Dental Society*, 2019, pars. 166, 167.

patient-centered care. In the case of a conflict, the interests of patients come first, and physicians have a duty not to abandon their patients.”¹ In deciding against the doctors, the appeal court summarized its holding as follows:

The issues raised in this proceeding present difficult choices for religious physicians who object to the policies, but they do have choices. While the solution is not a perfect one for some physicians..., it is not a perfect one for their patients either. They will lose the personal support of their physicians at a time when they are most vulnerable. Ordinarily, where a conflict arises between a physician’s interest and a patient’s interest, the interest of the patient prevails.... The [policies] represent a compromise. They strike a reasonable balance between patients’ interests and physicians’ *Charter*-protected religious freedom. In short, they are reasonable limits prescribed by law that are demonstrably justified in a free and democratic society.²

Commentary on the Professional Challenge

The legal effect of the *Christian Medical and Dental Society* (2019) case was to give succor and further argument to lawyers and members of the judiciary who have little understanding of the meaning and significance of conscience.³ Of particular legal concern is that the concept of “reasonable accommodation” through alternative sources was rejected. Thus, such litigation is made a zero-sum game, where accommodation is impossible and where group rights are seen as absolute in Canadian jurisprudence.⁴ Further, the idea that a professional who is fully qualified to practice must accept as a condition of practice that profession’s secular view of morality on fundamental religious issues smacks of the

¹ *Christian Medical and Dental Society*, 2019, par. 167.

² *Christian Medical and Dental Society*, 2019, par. 187.

³ On this last topic see J.K. Donlevy, “Catholic Schools and Freedom of Conscience in the Canadian Charter of Rights and Freedoms,” *Journal of Catholic Legal Studies Symposium Issue* 47, no. 1 (2008): 69–96; J.K. Donlevy, “A Challenge to Ontario’s Catholic Schools: Bill 13 and Freedom of Conscience,” *Journal of the Canadian Chapter of the Fellowship of Catholic Scholars* 6, no. 1 (2013): 9–43; J.K. Donlevy, “On Conscience: Vatican II, St. John Paul II, Pope Benedict XVI, and Pope Francis,” *Fidelitas: Journal of the Fellowship of Catholic Scholars* (Canada) 8, no. 1 (2015): 12–32; J.K. Donlevy, D. Gereluk, J. Brandon, & P. Patterson, “Freedom of Conscience and Catholic Schools,” *Interchange: A Quarterly Review of Education* 44, no. 3 (2013): 241–55; (Rev.) S. Penna & J.K. Donlevy, “The Right to Die: Mercy and Freedom of Conscience in Canada: Amending the Criminal Code after *Carter v. Canada*,” *Fidelitas: Journal of the Fellowship of Catholic Scholars* (Canada) 11, no. 2 (2016): 59–113.

⁴ One might also argue this interpretation when viewing the recent case of Trinity Western Law School, in which the Supreme Court of Canada held that graduates of a private religious university in British Columbia can be prohibited from engaging in articles of law solely because they graduated from that university. *Law Society of British Columbia v. Trinity Western University* SCC 32, [2018] 2 S.C.R. 293, available at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/17140/index.do>.

totalitarianism referred to at the beginning of this paper. We suggest that to give such power to the state – that is, the political party and its apparatchiks in power at any given time – is not just morally corrupt but dangerous to the democracy itself. We speak more of these dangers in parts 2 and 3 below.

The Institutional Challenge: Bill 24 and Religious Schools in Alberta

In 2015, the Alberta Progressive Conservative government passed Bill 10, which gave Alberta’s students the right to establish a Gay–Straight Alliance (GSA) Club in their schools.¹ The opposition party, the New Democratic Party of Alberta (NDP), argued that Bill 10 did not sufficiently protect LGBTQ+ students in schools for a variety of reasons. Most vociferously, they argued that teachers would “out” students as being a member of a GSA to parents.

When the NDP formed government on April 7, 2015, Education Minister Eggen acted quickly. The legislature passed Bill 24: An Act to Support Gay–Straight Alliances² on November 15, 2017, as noted here:

“There were no provisions to protect student privacy, to prevent interference or delay in setting up clubs, and little to enforce compliance,” Edmonton–Calder NDP candidate Eggen said in an email on Wednesday. “That’s why we passed a new law – to ensure every student, at every school, has the clear right to form a gay–straight alliance at their school without fear of being outed.”³

Under Bill 24 (2017), one or more students could request to create a GSA club in their school and to use the name Gay–Straight Alliance or Queer–Straight Alliance. The bill specifically prohibited teachers and school administrators from informing the parents of any student attending a GSA club of their child’s attendance. The bill also provided that if Alberta’s Minister of Education determined that a school was noncompliant with Bill 24, he had the authority to rewrite policies to his satisfaction, investigate the school and take further

¹ M. Bellefontaine, “Bill 10 to Allow Gay–Straight Alliances for Any Student in Alberta Schools,” CBC News (10 March 2015), available at <https://www.cbc.ca/news/canada/edmonton/bill-10-to-allow-gay-straight-alliances-for-any-student-in-alberta-schools-1.2989399>.

² “Bill 24: An act to Support Gay–Straight Alliances,” The Legislative Assembly of Alberta, 3rd Session, 29th Legislature, 66 Elizabeth II, 2017, available at https://docs.assembly.ab.ca/LADDAR_files/docs/bills/bill/legislature_29/session_3/20170302_bill-024.pdf.

³ Eggen, as cited in J. French, “Explainer: What the School Act and the Education Act Say about LGBTQ Student and Employee Rights,” *Edmonton Journal* (28 March 2019), par. 6, available at <https://edmontonjournal.com/news/local-news/explainer-what-the-school-act-and-the-education-act-say-about-lgbtq-student-and-employee-rights>.

disciplinary steps against the school that could include withdrawing funding¹ and revoking accreditation.²

The public uproar against Bill 24 (2017) included parents and many Catholics, Jews, Muslims, Sikhs, Baptists, and Evangelical Christians in Alberta's religious communities. Their opposition was based upon several legal grounds, among them that parents have a constitutionally recognized right to make informed decisions about their children's education. This right had recently been affirmed by the Supreme Court of Canada³ and by the Ontario Court of Appeal.⁴ Opponents also argued that religious schools have freedom of religion to align their "policies, practices and personnel...with their religious faith."⁵

With these concerns, and more,⁶ the various protesting communities initiated litigation against the Alberta government seeking injunctive relief.⁷ The Justice Centre for Constitutional Freedoms (2018), acting for the plaintiffs, stated:

This court application asks the court to strike down provisions of Bill 24 on the basis that they violate the rights of parents and schools protected by section 2(a) [freedom of conscience and religion], 2(b) [freedom of thought, belief, opinion and expression], 2(d) [freedom of association], and 7 [everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice] of the *Canadian Charter of Rights and Freedoms* (the "Charter") and the *Alberta Bill of Rights*. The court application also seeks an injunction staying the operation of the challenged provisions until the Court rules on their constitutionality, expected in 2019.⁸

¹ Under the Alberta School Act, as it then was and remains today under the Education Act, private religious schools receive some funding and constitutionally protected Catholic separate schools receive full funding from the Alberta government.

² D. Bennette, "28 Alberta Schools Not Meeting GSA Requirements Will Lose Funding Next Year," GlobalNews (14 November 2018), available at <https://globalnews.ca/news/4662671/eggen-gsas-gay-straight-alliances-alberta-schools-funding/>.

³ *Loyola High School v. Quebec* (Attorney General), 2015 SCC 12, available at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14703/index.do>.

⁴ *E.T. v. Hamilton-Wentworth District School Board*, 2017 ONCA 893, available at <https://www.canlii.org/en/on/onca/doc/2017/2017onca893/2017onca893.html>.

⁵ J. Carpay, "Taking Bill 24 to Court: Questions and Answers," (2019), p.1, available at <https://www.jccf.ca/?s=bill+24+questions>.

⁶ See French (2019), cited in n. 45 above.

⁷ *P.T. et al. v. Regina*, 2018.

⁸ Justice Centre for Constitutional Freedoms, "Injunction Hearing to Stay Bill 24 Provisions in Medicine Hat Today" (20 June 2018), par. 7, available at <https://www.jccf.ca/?s=medicine+hat>. See also J. Cameron, J. Carpay, & J. Kitchen, "Parental Rights Are Human Rights: Alberta's Bill 24 Violates Charter Freedoms," Justice Centre for Constitutional Freedoms (November 2017), available at <https://www.jccf.ca/wp-content/uploads/2017/11/2017-11-23-Parental-Rights-are-Human-Rights-Bill-24-violates-the-Constitution->

At the injunctive hearing, the Government of Alberta was successful.¹ Justice Kubik found:

no serious issue to be tried. Neither the attestation, nor the requirements to publicly post a policy...require schools to forsake their religious principles or teachings; it merely requires them to evidence their compliance with common public interest values, honour the *Alberta Human Rights Act* by not discriminating, treat people in accordance with *Charter* values, and publicly state that they will provide all students, including LGBTQ+ students with a welcoming, caring, respectful, and safe learning environment that respects diversity and fosters a sense of belonging.²

The appellant religious groups appealed, and on April 29, 2019, the Alberta Court of Appeal's Justices Schutz and Pentelechuk held for the government, with Justice McDonald dissenting in part.³ The majority determined that in the three-part test for injunctive relief, the appellant religious groups had met the first part of the test for an injunction, saying, "We are satisfied that the appellants' claims are not frivolous or vexatious."⁴ On the second part of the test, the court asked if there would be "irreparable harm to the appellants"⁵ if the injunction were not granted. This was a difficult argument before the appeal court, and so we provide the arguments made to it. The appellants argued that

being required to attest in their annual declaration and otherwise comply with the impugned legislation forces them to contravene their fundamental beliefs. Further, they state that the consequences of termination of governmental funding, suspension of accreditation, or both would harm their ability to serve the appellants' student populations.... [Moreover] the *Charter* violations...have serious religious and spiritual implications, which would result in irreparable harm.⁶

The government argued, *inter alia*, that

the chambers judge reasonably found that the appellants had not established irreparable harm; moreover, case law supports the public benefit objectives of the legislation and the perceived or predicted harms claimed have been greatly overstated.... There is no harm in requiring schools to teach students, as part of the curriculum, about other religions or about same-sex relationships.... The chambers judge reasonably found that having to respect the

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¹ *PT v Alberta*, 2018 ABQB 496, available at <http://canlii.ca/t/hsvl8>.

² *PT v Alberta*, 2018, par. 49.

³ *PT v Alberta*, 2019 ABCA 158 (CanLII), available at <http://canlii.ca/t/j00zk>.

⁴ *PT v Alberta*, 2019, par. 84.

⁵ *PT v Alberta*, 2019, par. 86.

⁶ *PT v Alberta*, 2019, pars. 85-86.

rights of LGBTQ+ students in *all* Alberta schools does not constitute irreparable harm to the appellants.¹

Thus, the appeal was dismissed, but Justice McDonald, dissenting in part, argued that the government should be prohibited from taking action against the religious schools prior to trial:

I would...enjoin the respondent from withholding or reducing from the current levels, the funding for the schools in question for the academic year 2019–2020 and further to enjoin the respondent from de-accrediting these same schools (the schools in question) until further order of this Court.²

No further action has been taken by the government, nor have the religious groups attempted an appeal of the court's judgement.³ The provincial election of April 2019 determined the issue, as the newly elected United Conservative Party under Jason Kenney won the election and acted to repeal Bill 24's GSA provisions. The new legislation, Bill 8 (2019),⁴ addressed many of the parental and religious groups' concerns. Under Bill 8, the prohibition against teachers telling parents that their child was in a GSA was removed. The government argued that there were sufficient protections for students' privacy concerns in other legislation: the Freedom of Information and Protection of Privacy Act⁵ in the case of publicly funded schools and the Personal Information Protection Act⁶ for private schools. Therefore, disclosure would be permitted only if required for law enforcement or if a student was at risk of self-harm.⁷ On September 1, 2019, the Education Act (2012) became law,⁸ resulting in the effective repeal of Bill 24 and the majority

¹ *PT v Alberta*, 2019, par. 87.

² *PT v Alberta*, 2019, par. 116.

³ Justice Centre for Constitutional Freedoms, "Constitutional Challenge to Bill 254 Discontinued Following Repeal of School Act," available at <https://www.jccf.ca/constitutional-challenge-to-bill-24-discontinued-following-repeal-of-school-act/>.

⁴ "Bill 8: The Education Amendment Act," The Legislative Assembly of Alberta, 1st Session, 30th Legislature, 68 Elizabeth II, 2019, available at https://www.assembly.ab.ca/ISYS/LADDAR_files/docs/bills/bill/legislature_30/session_1/20190521_bill-008.pdf.

⁵ Freedom of Information and Protection of Privacy Act, Revised Statutes of Alberta 2000 Chapter F-25, available at <http://www.qp.alberta.ca/documents/Acts/f25.pdf>.

⁶ Personal Information Protection Act, Statutes of Alberta, 2003, Ch. P-6.5, available at <http://www.qp.alberta.ca/documents/Acts/P06P5.pdf>.

⁷ See M. Bellefontaine, "Privacy Laws Will Protect LGBTQ Students, UCP Says as Amended Education Act Introduced," CBC News (June 2019), available at <https://www.cbc.ca/news/canada/edmonton/privacy-laws-will-protect-lgbtq-students-ucp-says-as-amended-education-act-introduced-1.5163765>.

⁸ Education Act, Statutes of Alberta, 2012, Chapter E-0.3, available at <http://www.qp.alberta.ca/documents/Acts/e00p3.pdf>.

of the provisions claimed to have breached parents' right to freedom of religion under the Charter.

Commentary on the Institutional Challenge

The defense of the right to freedom of conscience and religion in the *PT v Alberta* case is illustrative of the derivative right of parents to be the primary educators of their children. This right is in accordance with various domestic laws as well as the *Universal Declaration of Human Rights*¹ and the *International Covenant on Civil and Political Rights*.² Such international statements are not only legally binding but also persuasive – or should be so – in Canadian courts. Although *PT v Alberta* (2019) is an interlocutory decision, the judicial approach to the issue of freedom of conscience and religion is indicative of the jurisprudential zeitgeist in Canadian courts vis-à-vis the parent–child relationship. It appears that the default position juridically is that parents cannot be trusted to act in the best interests of their children and that the legal maxim *parens patriae* has been extended not just to children in jeopardy but to all children, whether or not they are in jeopardy. This is a fundamental movement in Canadian law. The state has begun to see the family unit as inherently dangerous to children, and the secular ideology as necessary to protect children from unhealthy religious views that would stifle the child's development into an autonomous, independent citizen. These are concerning conclusions, and section 1 of the Charter allows the courts to legally enforce these views.

Commentary on Legal Challenges

Section 1 of the Charter empowers the courts to constrain and at times entirely discount the fundamental freedoms it enshrines subject to “reasonable limits.”³ That thesis is well known in Canadian law and was the purpose of the section's inclusion. No rights are absolute, and exceptions must always be considered. In doing so, however, the courts in Canada have become socially active in what had hitherto been legislative issues. This paper is not the venue to make that case, but in support of it, former Chief Justice Beverly McLachlin stated:

Resolving disputes is still the primary and most fundamental task of the judiciary. But for some time now, it has been recognized that the matter is not so simple. In the course of

¹ Universal Declaration of Human Rights (10 December 1948), Articles 18, 26[3], available at <https://www.un.org/en/universal-declaration-human-rights/>.

² International Covenant on Civil and Political Rights (23 March 1976), Articles 18[1], 23[1], available at <https://www.ohchr.org/en/professional-interest/pages/ccpr.aspx>.

³ Canadian Charter, 1982; see the Appendix.

resolving disputes, common law judges interpreted and inevitably, incrementally, with the aid of the doctrine of precedent or *stare decisis*, changed the law. The common law thus came to recognize that while dispute resolution was the primary task of the judge, the judge played a secondary role of lawmaker, or at least, law-developer. In the latter part of the twentieth century, the lawmaking role of the judge has dramatically expanded. Judicial lawmaking is no longer always confined to small, incremental changes. Increasingly, *it is invading the domain of social policy, once perceived as the exclusive right of Parliament and the legislatures.*¹

The danger of such a proposition is that nine people – in fact, five people – can decide fundamental questions concerning freedom of conscience and religion in Canada and justify their decision using the Oakes Test. The Oakes Test allows courts to seek proportionality between the effects of the measures responsible for limiting the Charter right or freedom and the objective that has been identified as of sufficient importance (see the Appendix). Point three allows the ideological social winds of the time to provide the source of “sufficiently important” secular societal values to tip the judicial scales against fundamental freedoms. One such example of contemporary ideological input into determining the extent of religious rights is the court’s acceptance of the concept of Christian privilege in the *Theodore* case from the Province of Saskatchewan.² When one combines the approach of the former Chief Justice to judicial activism and the political correctness of the times as the governors of the law and fundamental freedoms, one must be concerned regarding the rule of law.

We have provided a professional and an institutional example of challenges to freedom of conscience and religion in Canada, yet many more could have been provided. One example, which we discuss further in part 2, is the attack on the individual citizen’s right to freedom of conscience and religion through the federal government’s summer jobs program. That program gave funding to organizations provided that, in the application form, they publicly approved of “reproductive rights”³ – that is, contraception and abortion. Although the public outcry from many religious groups compelled the federal government to amend the preconditions, it remains a controversial issue and an example of the state compelling compliance with moral and ethical issues prior to being able to fully participate as a citizen. A further attack on a citizen’s right to freedom of conscience and

¹ B. McLachlin, “The Role of Judges in Modern Society,” Supreme Court of Canada (5 May 2001), section on changes in the duties of judges, par. 2 (emphasis added), available at <https://www.scc-csc.ca/judges-juges/spe-dis/bm-2001-05-05-eng.aspx>.

² *Good Spirit School Division No. 204 v Christ the Teacher Roman Catholic Separate School Division No. 212*, 2017 SKQB 109, par. 464, available at <http://canlii.ca/t/h3h06>.

³ J. Press, “Federal Government Drops Controversial Wording from Summer Jobs Program,” *Huffington Post* (6 December 2018), par. 3, available at https://www.huffingtonpost.ca/2018/12/06/summer-jobs-program-attestation_a_23610627/?guccounter=1.

religion is seen in Liberal Party of Canada's requirement that anyone seeking to run for the party must support a woman's right to abortion.¹ Having thus looked at the jurisprudential challenges to freedom of conscience and religion, we move to the second part, the socio-political challenges.

2. *Socio-political Challenges*

Much can be said about the socio-political aspects of the battle between the CPSO² and its mandate, which requires doctors who object to certain procedures on conscientious grounds to ensure nevertheless that their patients are referred to another physician to perform the very same procedure. Procedures could include abortion, gender reassignment, the administering of artificial birth control, euthanasia, and assisted suicide, legal in Canada since June 2016.³

As Catholic theologian and social commentator George Weigel has asserted,

In Catholic social doctrine, there are settled matters, and then there are issues whose resolution in terms of law and public policy can be legitimately debated and contested. Among the settled matters are the inalienable dignity and value of every human life from conception until natural death; the priority of the first freedom, religious freedom, in any meaningful scheme of civil and political rights; the priority of civil society over the state; the right of workers to form associations to promote their interest; and the duty of all – business, labor, voluntary associations – to conduct themselves in ways that contribute to the common good and not simply to their own benefit or aggrandizement.⁴

The violation of physicians' freedom of religion and freedom of conscience has the real consequence of compelling them to be complicit in morally objectionable acts, such as referring for euthanasia, assisted suicide, or other procedures contrary to the Catholic understanding of the dignity of the human person from conception to natural death. The overall trend in Canada of competing rights claims and autonomy trumping religious beliefs is a great cause of this affront to

¹ S. Kirkpatrick, "Justin Trudeau Says Anti-Abortion Candidates Can't Run as Liberals," *National Post* (7 May 2014), available at <https://nationalpost.com/news/politics/justin-trudeau-says-anti-abortion-candidates-cant-run-as-liberals>.

² College of Physicians and Surgeons of Ontario, "Professional Obligations and Human Rights" (2015), available at <https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Professional-Obligations-and-Human-Rights>.

³ Bill C-14, An Act to Amend the Criminal Code and to Make Related Amendments to Other Acts (Medical Assistance in Dying), Parliament of Canada, 1st Session, 42nd Parliament, 64–65 Elizabeth II, 2016, available at <https://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=8177165&View=10>.

⁴ George Weigel, "The Pope as Trophy-Chaplain to the Democratic Party," *National Review* (30 July 2015), par. 15, available at <https://www.nationalreview.com/2015/07/liberal-democrats-claim-pope-george-weigel/>.

freedom of religion and freedom of conscience, but it is not the only consequence. When courts, governments, and regulatory bodies engage in trumping exercises that subjugate religious and moral beliefs to notions of autonomy, the call for Catholics to contribute becomes more difficult to answer, and Canadian pluralism becomes less authentic.

As noted in the first part, the legal case of *Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario* challenging the effective referral regime ended when a panel of the Court of Appeal upheld the previous decision. Doctors in Ontario were denied conscientious exemption from the compulsion to refer patients to other physicians to perform procedures to which they object, thus forcing them to violate their conscience. This resolve on the part of the CPSO to insist upon the effective referral requirement was initiated in August of 2014, when external consultation was sought to change its document "Physicians and the Ontario Human Rights Code."¹ The 2014 draft policy of *Professional Obligations and Human Rights* included the effective referral mandate for the first time. This inclusion marked a major departure from the previous version of 2008, just six years prior, that did not compel physicians to refer patients to willing colleagues.

What had changed since 2008 that warranted the CPSO to insist so tenaciously that patient autonomy would trump the rights of physicians to guide their own medical practices as professionals? Why was it necessary to enter into a battle of competing rights, placing severe freedom of conscience and freedom of religion incursions onto physicians in the pursuit of a balance of such competing rights claims? In the Ontario court case, in which the effective referral was upheld, the court declined to comment on the freedom of conscience argument.² The divisional court indeed found CPSO's policy to be in breach of the Canadian constitutional right to freedom of religion, though with a reasonable limit.³

Perhaps it is not surprising that lower courts, not to mention regulatory bodies like the CPSO, are willing to allow individual autonomy, in this case patient autonomy, to trump freedom of conscience and freedom of religion. After all, the Supreme Court of Canada made no assertion of the conscientious or religious rights of healthcare professionals when it overturned existing criminal code provisions against assisted suicide and euthanasia.⁴ Instead, the Court relegated freedom of conscience and freedom of religion to future competing

¹ College of Physicians and Surgeons of Ontario, "Physicians and the Ontario Human Rights Code" (n.d.), available at http://policyconsult.cpso.on.ca/?page_id=3403.

² *Christian Medical and Dental Society of Canada*, 2019, par. 5.

³ *Christian Medical and Dental Society of Canada*, 2018.

⁴ See *Carter v. Canada*, 2015, available at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14637/index.do>.

rights claims.

In Bill C-14, which makes assisted suicide and euthanasia legal, there are references to physicians' rights to object in the preamble, but there are no provisions for conscientious or religious objection in the actual law itself. Despite the submissions of several advocacy groups defending physicians' rights, such as the Catholic Civil Rights League,¹ there were no amendments to the criminal code that would make compelling a healthcare professional to participate in the killing of a patient a punishable offense.

Health care in Canada and its provision falls under provincial jurisdiction. Individual provinces and territories must determine how the new assisted suicide and euthanasia regime will be implemented. This determination includes how objecting physicians would decline complicity in this new era of patient autonomy over choosing to kill oneself or be killed. In the province of Ontario, legislation failed to address the rights of healthcare workers to conscientiously object, in effect paving the way for the CPSO's effective referral to be the only policy in place for physicians. This was not the case, however, in Manitoba, where Bill 34 (2018) passed unanimously.² It included provisions for healthcare professionals to object without compelling them to refer, which is morally objectionable because it maintains complicity in the morally objectionable act.

Whereas the Province of Manitoba has enacted legislation upholding beliefs regarding freedom of religion and freedom of conscience, most other provincial governments have failed to do so. With the Supreme Court of Canada opening the doors to euthanasia and assisted suicide without commenting significantly on freedom of religion or freedom of conscience, and the federal government doing the same, regulatory bodies such as the CPSO have drafted policies (upheld in court) that acceptably infringe upon those freedoms.

Although legal, certain practices (not limited to euthanasia and assisted suicide) are morally unacceptable to Catholics who have an understanding of human dignity that is based not on emotion or subjectivity but, rather, on an understanding of the human person created in the image of God and ultimately loved and valued by the Creator.³ Catholics judge themselves by this love,

¹ "The Catholic Civil Rights League (CCRL) Decries the Supreme Court's 9-0 Decision in Carter Striking Down Criminal Code Provisions against Physician Assisted Suicide – Canada Enters a New Era of 'Suicide Rlativism'" (6 February 2015), available at <https://ccrl.ca/2015/02/scc-ruling-carter-against-crim-code-physician-assisted-suicide/>.

² Bill 34, The Medical Assistance in Dying (Protection for Health Professionals and Others) Act, The Legislative Assembly of Manitoba, 2nd Session, 41st Legislature, 2018, available at <https://web2.gov.mb.ca/bills/41-2/b034e.php>.

³ Pope John Paul II, *Evangelium vitae*. See also B. Platt, "How the Canada Summer Jobs Program Became a Freedom-of-Religion Controversy," *National Post* (21 January 2018), available at <https://nationalpost.com/news/politics/how-the-canada-summer-jobs->

manifested also by love of neighbor through familial and societal relationships in which work is done for the greater good.

When courts, governments, and regulatory bodies engage in trumping exercises in the name of competing rights claims, they are not contributing to a robust, authentic Canadian pluralism that would not subjugate matters of faith and conscience. The better alternative for Canada would be to engage in a true pluralism, where differences are respected, especially as they pertain to religious and moral beliefs. Religious beliefs would not be seen as trivial and less important than the concept of the good life advanced by radical secularists embraced by the courts, governments, and regulatory bodies. A well-developed pluralist Canada would in no way subjugate religious and conscience rights to claims of autonomy.

Mentioned briefly in first part, another stark example of the federal government imposing its secular ideology over the conscientious and religious freedoms of Canadians is its 2018 revisions to the Canada Summer Jobs program. The Liberal government under Prime Minister Justin Trudeau changed eligibility requirements for businesses, including nonprofits and charities, seeking to employ summer students. To be eligible to participate, prospective employers had to attest that

“the core mandate of the organization” respects “reproductive rights and the right to be free from discrimination on the basis of sex, religion, race, national or ethnic origin, colour, mental or physical disability, sexual orientation or gender identity or expression.” The document is explicit: included under “reproductive rights” was “the right to access safe and legal abortions.”¹

The Catholic Civil Rights League referred to the Trudeau government as promoting “abortion absolutism.”² This fundamentalist stance on abortion was revealed prior to the 2015 election, when Trudeau made it clear that there was no place for prolife Canadians in the Liberal Party of Canada, stipulating that such individuals could not run for office within that party.³ Whereas the idea that the “right to safe and legal abortions” as a fundamental right might be a belief of the Liberals, the truth is that no such right exists either in the Charter of Rights and Freedoms or in case law. Regardless, it is not the function of the state to compel employers to affirm loyalty to a set of values that they would find deeply wrong. Paying taxes and respecting and observing the laws of Canada should clearly be sufficient

program-became-a-freedom-of-religion-controversy.

¹ Catholic Civil Rights League (cited in n. 82 above), par. 3.

² Catholic Civil Rights League, par. 1.

³ Catholic Civil Rights League, “The Trudeau Government – Abortion Absolutists – Imposes Its Will over the Conscientious and Religious Freedoms of Canadians” (11 January 2018), available at <https://ccrl.ca/2018/01/canadasummerjobs/>.

grounds for participation in a government-sponsored jobs program for summer students.

For Catholics, the implication of the 2018 revised Canada Summer Jobs application was abundantly clear. Any individual or organization that professes fidelity to the teachings of the Church could not make the affirmation, effectively excluding them from the program, previously open to all law-abiding organizations in Canada. Because a firm and principled rejection of abortion is inseparable from an adherence to the Catholic faith, as outlined in *Evangelium vitae*,¹ Catholic charities and nonprofit organizations that had nothing to do with abortion advocacy would nonetheless be excluded from hiring summer students through this program.

The revised policy did not merely state that program funds could not be used for prolife activism. It required applicant organizations to affirm their commitment to abortion as a legal and human right, a position utterly unacceptable to thousands of Catholic charities in Canada committed to contributing to the common good. Essentially, all Catholic organizations, hundreds of other faith-based charities, and other non-faith-based prolife groups were excluded from the Summer Jobs program in 2018.

This compulsion to make an affirmation, impossible for Catholic organizations, is eerily similar to the compulsion for physicians opposing euthanasia and assisted suicide to make an effective referral. In both cases, (a) policy positions trump the constitutional protections of freedom of conscience and freedom of religion, and (b) there is a disturbing totalitarian impulse, albeit soft in nature. The compulsion to conform to a secular ideology, no matter how benign in initial appearance, is an affront to all Canadians and their freedoms of conscience and religion. It is indicative of a civic totalitarianism,² in which a suppression of viewpoints not shared by the government and the denial of funding for dissentient groups are viewed as reasonable costs for the maintenance of the said secularist society. Such acts are illiberal and nonpluralist in their intolerance of positions rooted in religious faith or philosophical beliefs contrary to the zeitgeist. Prime Minister Justin Trudeau, for example,

described objections to the [Canada Summer Jobs] attestation demands as a mere “kerfuffle,” and that Canadian groups who believed in the sanctity of human life are “not in line with where we are as a government and quite frankly where we are as a society.”³

¹ *Evangelium vitae*, 59, 70, 71, 72, 101.

² S. Macedo, *Diversity and Distrust: Civic Education in a Multicultural Democracy* (Cambridge, MA: Harvard Univ. Press, 2003).

³ As cited in Catholic Civil Rights League, “CCRL Petition against Demands for Ideological Conformity,” par. 3: “Just check the box!” (2 March 2018), available at

In December of 2018, the government eliminated the attestation requirement in time for the 2019 Canada Summer Jobs application. It moved from an attestation requirement to a new demand for applicants to confirm that they would not engage in certain proposed activities in respect of otherwise legitimate beliefs with which the current government disagrees. For Catholic organizations, the most problematic was “projects or job activities that...actively work to undermine or restrict a woman’s access to sexual and reproductive health services.”¹

This amendment for the 2019 Canada Summer Jobs program application, also in place for 2020, sought to include religious organizations involved in charitable work to carry on without having to make an affirmation in violation of freedom of conscience and religion, yet the revised application continues to block funding to organizations who do not share its unfettered pro-abortion position. The government continues to maintain a false impression that there is a right to safe and legal abortion in Canada. It does not exist, however, as part of either the Charter of Rights and Freedoms or in case law. Yet, peaceful protest and assembly do exist as rights legally protected in Canada. Though the language in the 2019 and 2020 Canada Summer Jobs applications is softer than it was in 2018, the program continues to exclude prolife organizations from participation. Political ideology and policy continue to trump the established rights of freedom of conscience and freedom of religion in Canada, and directives by governments and legislative bodies continue to indulge in the totalitarian impulse.

3. A Reflection on Freedom of Conscience and Religion in Canada

The attack on freedom of conscience and religion can be seen as a societal conflict – part of the culture wars between a citizenship split between those holding modern secular values and those holding outdated conservative values. It may also be seen as an all-out assault on the Judeo-Christian idea of conscience. But when we say this, we should consider what we mean by the term conscience.

After millennia of human thought, we can say that conscience is part of the human condition that in almost everyone's life there will be times when decisions must be made between what the individual believes is good and bad or between two evils or wrongs seeking the lesser of those two. It is also true that the individual will recognize at that time that he or she faces such a decision and will access the personal criteria to apply. That content may come from many sources. When the individual fails to act in accord with his or her own moral criteria (the

<https://ccrl.ca/2018/03/csjetpetition/>.

¹ Government of Canada (28 February 2020), “Funding: Canada Summer Jobs – Screening for Eligibility,” Employment and Social Development Canada, Bullet 5: “Ineligible Projects and Job Activities,” available at <https://www.canada.ca/en/employment-social-development/services/funding/canada-summer-jobs/screening-eligibility.html>.

antecedent conscience), a sense of guilt will ensue (the consequential conscience).

We may also say that the individual's personal life narrative is composed in no small part by the decisions they make when faced with decisions involving right and wrong, however those terms are personally defined. Indeed, it may not be an overreach to say that one's character is formed at least in part by such decisions. The conscience develops over time and is not shaped by a single event. It is nurtured and tested in community and therefore has a relational quality.

Interestingly, the autonomous, integrated individual expresses the self coherently when thoughts comport with speech and actions. Conscience appears to seek such integration the result of which may be considered a definition of integrity.

The zeitgeist of the times, at least in Canada, as displayed in this paper, approves using the power of the state and professional organizations to compel citizens to perform acts that are contrary to the conscience of some. Such people do not seek to be lawless citizens, but they are caught in the grips of the historical struggle between Austin's legal positivism and Aquinas's concept of natural law. The restriction of an individual's conscience by the state is a serious matter not just because it affects the individual citizen's ability to live by her or his moral beliefs and to express those beliefs in relationship, but also because it circumscribes the expression of the individual's thought, which is fundamental to the operation of a free and democratic society. In many ways, it is the *Sturm und Drang* of today's Canadian society.

The battle will continue between secular and sacred values in Canadian society. The former seek to impose particular values on all citizens, while the latter seek only to be allowed to exist in what the Canadian Charter of Rights and Freedoms promises under Section One to all Canadians "a free and democratic society."

Appendix: Oakes Test

The Oakes Test is derived from *R. v. Oakes*,¹ in which the Supreme Court of Canada created a legal test that can be used to justify a limitation on a person's section 1 Charter rights. Section 1 reads: "The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."² Determining what is "demonstrably justified in a free and democratic society" entails a threefold test:

(1) The measures adopted must be carefully designed to achieve the objective

¹ *R. v. Oakes*, 1986, 1 S.C.R. 103, available at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/117/index.do>

² Canadian Charter, 1982.

in question. They must not be arbitrary, unfair, or based on irrational considerations. In short, they must be rationally connected to the objective.

(2) The means, even if rationally connected to the objective in the first sense, should impair “as little as possible” the right or freedom in question.

(3) There must be a proportionality between the effects of the measures which are responsible for limiting the Charter right or freedom, and the objective which has been identified as of “sufficient importance.”

Using Counterinsurgency Strategies against the Catholic Church: The Example of *Humanae vitae*

*Christopher M. Carr**

ABSTRACT: On July 25, 1967, Pope Paul VI issued the encyclical *Humanae vitae*, in which he reaffirmed the Catholic Church's doctrine that using contraceptives is a morally illicit means of limiting family size. The prohibition against contraception was widely rejected by Catholics, however. One way to explain why Catholics were prepared to ignore this teaching at the time when *Humanae vitae* was published is by examining the counterinsurgent strategies adopted by the birth control movement. The three techniques that the birth control movement used included isolating the Church from other Christians, weakening Catholic support for the ban against contraceptives, and creating an expectation among Catholics that the doctrine would change. These techniques have continued to be effective ever since, but to know about them could help us to resist and overcome them.

GAUDIUM ET SPES, OTHERWISE known as the *Pastoral Constitution of the Church in the Modern World*, is one of four documents approved by the Second Vatican Council on its very last day of voting (7 December 1965). The third chapter of *Gaudium et spes* is entitled "Man's Activity in the Universe." This chapter ends with the following remark:

When we [that is, the human race] have spread on earth the fruits of our nature and our enterprise – human dignity, brotherly communion, and freedom – according to the command of the Lord and in His Spirit, we will find them once again, cleansed this time from the stain of sin, illuminated and transfigured, when Christ presents to His Father an eternal and universal kingdom of "of truth and life, a kingdom of holiness and grace, a kingdom of justice, love and peace." Here on earth the kingdom is mysteriously present.¹

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¹ "Pastoral Constitution of the Church in the Modern World," in *Vatican Council II: The Conciliar and Post Conciliar Documents*, rev. ed., ed. Austin Flannery, O.P. (Northport, NY: Costello, 1988), 938. Quote in text taken from the Preface for the Feast of "Our Lord Jesus Christ, King of the Universe," *The Roman Missal* (Totowa, NJ: Catholic Book Publishing, 2011), 359.

Christ's kingdom on earth is the Church. God's plan of salvation entails a divinely instituted community of faith that needs to operate in a world that has fallen away from God through human sin. It is a community destined by God some day to overcome all hostile spiritual and earthly powers. Ultimately, this kingdom is the means by which the human race and universe will be reunited to God and glorified.

But a salvific plan of this sort is not without risk. That is to say, given the mission God has established for her, the Church needs to be aware of the techniques of counterinsurgency have been used against her and could be used again. An example of a remarkably successful effort to use counterinsurgent techniques to oppose the Church is found in the historical events leading up to the publication of Pope Paul VI's encyclical *Humanae vitae* on July 25, 1968. Pope Paul wrote the encyclical to reaffirm the Church's traditional teaching that contraception is intrinsically immoral. In the decades prior to *Humanae vitae*, the birth control movement employed a set of counterinsurgency techniques to ensure that the message of *Humanae vitae* would be widely unpopular.

Counterinsurgency against the Church by the Birth Control Movement

The advocates for birth control used the tools of counterinsurgency in their campaign to make contraception more popular, including among Catholics. In addition to physical force, a traditional counterinsurgency generally makes efforts to deprive the enemy of resources, to apply political pressure, and to conduct psychological operations. The historical record shows that three kinds of counterinsurgent techniques were employed against the Church. These techniques consisted of isolating the Church from her allies, weakening support for her among her own members, and creating unrealistic expectations of the Church's magisterium through the use of the media.

Technique 1: Isolating the Catholic Church from Other Christians

According to a recent publication by the United States Joint Chiefs of Staff, one of the goals of counterinsurgency is to "isolate the insurgents"¹ from the wider community. In a like manner, advocates for wider use of contraception as means of birth control successfully isolated the Catholic Church from the support of other Christians. This goal was accomplished by means of both aversion and conversion.

Aversion was a method whereby non-Catholic communions were inhibited from openly assisting the Church in the political fight against artificial birth control. Margaret Sanger was responsible for initiating the use of this method. In

¹ Joint Chiefs of Staff, *Joint Publ. 3-24: Counterinsurgency* (25 April 2018), I-3.

1921 Sanger organized the First American Birth Control Congress¹ at the Plaza Hotel in New York City. The Congress was to conclude about fifteen blocks away at the Town Hall Theater with an event at which birth control information would be publicly disseminated. But the distribution of information about birth control methods violated the 1873 Comstock laws.² Police therefore disrupted the proceedings and arrested Sanger. It later became known that the Catholic Archbishop of New York, Patrick J. Hayes, had encouraged law enforcement to act. Sanger leveraged this event to detach the Catholic Church from potential allies. As Peter Engleman writes,

She shrewdly tapped into pervasive anti-Catholic bigotry.... Almost overnight, she now attributed to the Church all opposition to the birth control movement, forcing non-Catholic opponents into an uncomfortable association. As historian Leslie Woodcock Tentler has pointed out, by demonizing the Church, Sanger held in check “more conservative Protestant churches, those most likely to oppose contraception,” that were “also apt to be the most anti-Catholic. Few of their leaders were eager to make public cause with what Sanger liked to call ‘a dictatorship of celibates.’”³

Regarding the more liberal-leaning Protestant denominations, birth control activists removed any chance of possible cooperation with the Catholic Church over the long term by converting their leadership to accept the moral legitimacy of contraception. The first denomination to change its teaching was the Church of England. Even though it had condemned contraceptives at its Lambeth Conference of 1920, pro-birth control forces had successfully convinced a majority of the Anglican bishops meeting at the 1930 Lambeth Conference to permit the use of “methods other than complete abstinence” to limit family size, provided that a couple’s motives were devoid of “selfishness, luxury, or mere convenience.”⁴ Pope Pius XI responded quickly with the encyclical *Casti connubii* (31 December 1930) to defend the longstanding Christian position that contraception was immoral. However, “[in] the years following 1930...various Protestant churches

¹ Peter C. Engleman, *A History of the Birth Control Movement in America* (Denver: Praeger, 2011), 122.

² The legislation in which this collection of laws could be found was entitled “An Act for the Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use,” and it was signed into law by President Ulysses S Grant.

³ Engleman, *History of the Birth Control Movement*, 129. Cf. Leslie Woodcock Tentler, *Catholics and Contraception: An American History* (Ithaca, NY: Cornell Univ. Press, 2004), 53.

⁴ Anglican Communion Office, “Resolution 15: The Life and Witness of the Christian Community – Marriage and Sex,” *The Lambeth Conference: Resolution Archive from 1930* (Anglican Consultative Council, 2005), 7.

followed the lead of Lambeth rather than that of Rome,”¹ and by the end of the twentieth century, even some Eastern Orthodox Churches began to advise married couples that contraceptives were permissible in certain circumstances.²

Technique 2: Weakening Catholic Support for Church Doctrine

A second objective of the birth control movement’s counterinsurgency strategy was to diminish internal support for the Church’s teaching among Catholics themselves. Every successful counterinsurgency operation demands that its opposition be deprived of support from “the [local] population and its resources.”³ Ironically, the first strategy for isolating the Church as an institution temporarily strengthened the resolve of individual Catholics. Insofar as the Church was perceived to have been singled out for attack, “the teaching on birth control came for a growing number of Catholics to stand for their Church’s unyielding defense of Christian morals in an increasingly pagan world...[and thus served as] a proud if onerous badge of Catholic identity.”⁴ But that resolve was slowly eroded. To weaken the loyalty of Catholics to the Church, the faithful were exposed to pro-birth control rationales that proved easily appealing or led to questions that teachers in the Church did not satisfactorily answer.

Those working toward the acceptance of birth control made contraception sound appealing by claiming that a litany of real-world problems would be solved if more pregnancies could be prevented. An early proponent of contraception was Dr. William J. Robinson, a urologist, socialist, and author. Engleman notes:

Robinson’s writings, even before 1913, [contained] just about every argument in favor of birth control that was later adopted by the movement, including to reduce infant and maternal mortality; to improve women’s health and free women from “enforced motherhood;” to limit abortion; to avoid the neuroses and sexual dysfunction that many physicians attributed to withdrawal and prolonged abstinence; to strengthen marriage; to space births; to control population [size]; to limit disease and defect; to improve the quality of the human race; and to recognize that because sex was a natural instinct and pleasurable, it should not be restricted to procreation only.⁵

Most of the difficulties that Robinson listed would be of concern to faithful Catholics, many of whom were immigrants, poor, and experiencing such problems

¹ William H. Shannon, *The Lively Debate: Response to Humanae Vitae* (New York: Sheed and Ward, 1970), 10-11.

² The Greek Orthodox Church in 1985 and the Russian Orthodox Church in 2000 officially became at least somewhat open to artificial contraception.

³ Joint Chiefs of Staff, *Joint Publication 3-24: Counterinsurgency Operations* (5 October 2009), III-14.

⁴ Tentler, *Catholics and Contraception*, 9.

⁵ Engleman, *A History of the Birth Control Movement in America*, 35-36.

themselves. By presenting contraception as a means that might alleviate the suffering caused by these problems, birth control activists introduced doubts in the minds of Catholics regarding the prudential judgment of the Church's authoritative teaching. This doubt would later mature into skepticism about the magisterium itself, thereby corroding the allegiance of many Catholics to the Church.

That allegiance was further loosened by the magisterium's seeming inability to provide answers to questions about the alleged moral equivalence of the rhythm method and contraception. New details about the cyclical nature of a woman's fertility began to be discovered in the 1920s, and these discoveries reached a wider audience throughout the 1930s. In the United States, the title of Dr. Leo Latz's 1932 book, *The Rhythm of Sterility and Fertility in Women*, lent its name to the method derived from the new research. From within the birth control movement, two closely related assertions caused much confusion among lay Catholics.

The first assertion was that there was no moral difference between the two methods on the grounds that "a solid majority of theologians upheld periodic continence as a licit means of family limitation."¹ The challenge that the Church faced was to find a clear, understandable way to "counter the argument...deployed by the advocates of birth control, that rhythm was simply the 'Catholic' means to...[the same] end [achieved through contraception and] endorsed by all right-thinking Americans."² The Church did not fully rise to meet this challenge. Although the rhythm method became a staple in Catholic marriage formation programs in the 1940s and 1950s, and even received warm approval by Pope Pius XI in his 1951 address to the Italian Catholic Society of Midwives, engaged and married couples remained only partially catechized. Leslie Tentler explains:

The...[couples were] reminded of a prohibition [against contraception] about which they already knew, at least in broad outline, and reminded quite forcefully of their Catholic obligation to observe it. But they were not necessarily enlightened with regard to the logic on which that prohibition rested.³

And without that prohibition's rationale, the Church's teaching had a greater likelihood of being perceived as an illogical position made by an authoritarian institution.

The second assertion may have been more damaging than the first. Birth control supporters argued that the newly developed anovulant pill was really just

¹ Tentler, *Catholics and Contraception*, 175.

² *Ibid.*

³ *Ibid.*, 191.

another natural way of limiting family size. At the invitation of Margaret Sanger and with funding from Katherine McCormick, Dr. Gregory Pincus (an endocrinologist) and Dr. John Rock (a professor of gynecology at Harvard University) developed the progesterone pill in 1953. Several years of testing on women followed, and “[in] 1960...[the contraceptive pill] was approved in commercial form by the Food and Drug Administration for marketing in the United States.”¹ The invention of a pill used for contraception did not cause much immediate confusion because the “theological reaction...was unanimously condemnatory.”²

Problems arose for the Church only in 1963, when Rock published a book entitled *The Time Has Come: A Catholic Doctor's Proposals to End the Battle over Birth Control*. Rock identified himself as a faithful, practicing Catholic and insisted in his book that the pill “was simply a refinement of the rhythm method.”³ After all, Rock argued, “[w]omen were naturally sterile for a portion of each menstrual cycle; the Pill [simply] achieved an extension of that natural sterility by means of externally administered hormones.”⁴ The majority of Catholic moralists rejected this reasoning and replied by pointing out that “the Pill [really functioned] as an agent of temporary sterility, and, as such, was gravely sinful.”⁵ But in all probability, large numbers of Catholics were swayed by Rock’s argument that the pill was as natural as rhythm, which did have the Church’s approval. Thus, if a pope or council were ever to authoritatively condemn the pill, those Catholics would easily conclude that Church was contradicting herself and so no longer had to be taken seriously.

Technique 3: Creating Expectation of Doctrinal Change among Catholics through the Media

The third and final counterinsurgent strategy that the birth control movement implemented against the Catholic Church was cultivating unrealistic expectations of the Church’s magisterium among Catholics by means of a dominant presence in the media. While electronic means of communication have been making a difference on physical battlefields since at least World War II, military strategists had now come to identify the media as a “battlespace” in its own right.⁶ The primary motive for controlling the media battlespace is to “manage information

¹ John T. Noonan, Jr., *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists* (Cambridge, MA: Harvard Univ. Press, 1965), 460.

² *Ibid.*

³ Tentler, *Catholics and Contraception*, 211.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Cf. Major Patrick Proctor, “Defining the Media Battlespace” (Fort Leavenworth, KS: unpublished manuscript, c. 2006).

and [consequently] expectations.”¹ In an actual war that involves counter-insurgency, expectation management is defined as “a process that enforces reasonable expectations [among the local population], and is intended to prevent unrealistic expectations.”² For the birth control movement, what had to be done was to create the expectation among Catholics that the Church’s teaching on contraception would eventually change, and this prospect was encouraged by the media’s giving voice almost exclusively to people calling for that change. The most important voices used in this effort came from three groups inside the Church, namely, lay Catholics, members of the hierarchy, and members of an *ad hoc* papal commission chosen to advise the pope on the question of using contraceptives.

Secular media, as well as some Catholic publications, focused on members of the laity who were campaigning to have the Church declare that contraception was morally licit. Among the first Catholics to appear in an American periodical and speak about the need for the Church to alter her doctrine was Dr. John Rock. Two years before his book was published, he had written a pro-contraception article for the July 1961 issue of *Good Housekeeping* magazine.³

The later success of the book then gave Rock the opportunity to be interviewed by *Life* magazine, the *Saturday Evening Post* and *Newsweek*.⁴ As a result, “Rock’s book...helped to persuade the American media that Catholic dissent over contraception was a safe, even profitable, topic to explore.”⁵ *The New York Times* soon printed a series of articles exposing the conflict within the Church over contraception, and the series was then redacted for *Reader’s Digest*.⁶ Television producers also wanted to highlight dissent to Catholic teaching. The usual result was a program consisting of “[p]anelists..., usually three or four to one in favor of contraception, sterilization and abortion – [who] always made it appear that the orthodox Catholic was an oddity in American society.”⁷ Supplementing secular coverage was a “[n]ewly critical Catholic press...[that included] lay-edited publications [such] as *Commonweal* and...*National Catholic Reporter*.”⁸ The Catholic periodical *Jubilee* also publicized dissenting Catholics regarding the ban

¹ Joint Chiefs of Staff, *Counterinsurgency Operations*, III-16.

² *Ibid.*, III-17.

³ Ambrogio Valsecchi, *Controversy: The Birth Control Debate 1958-1968* (Washington, D.C.: Corpus, 1968), 37 n. 2.

⁴ Tentler, *Catholics and Contraception*, 211.

⁵ *Ibid.*, 212.

⁶ *Ibid.*

⁷ George A. Kelly, “The Bitter Pill the Catholic Community Swallowed,” in *Human Sexuality in Our Time: What the Church Teaches* (Jamaica Plain, MA: Daughters of St. Paul, 1979), 34.

⁸ Tentler, *Catholics and Contraception*, 207.

on contraceptive use; its December 1963 issue featured essays critical of the ban by the aspiring theologian Rosemary Radford Reuther and a layman named Bruce Cooper, an English husband and father.¹ As a general rule in the 1960s, all secular media outlets, and a small but vocal minority of Catholic periodicals, began to have a decided preference for reporting about Catholics who hoped that the Church was on its way to accepting the pill and other artificial methods of spacing births. These reports certainly communicated that hope to others.

Because priests needed to serve their flocks and obey the magisterium, they were caught in the middle and so not at liberty to be the Church's authoritative spokesmen; nevertheless, a number of bishops became willing to go on the record in the media with statements that suggested an opportune moment had arrived for the Church to consider adjusting her teaching about how to legitimately control family size. Such statements were made within the Second Vatican Council as well as in separate reports.

The Second Vatican Council had opened in 1962, and journalists sought and found bishops in attendance willing to advance the expectation that the Church was on the verge of making concessions to the modern world, particularly on the issue of birth control. Tentler notes:

Though the Council's sessions were closed to the press and its participants initially sworn to secrecy, the Council was still widely covered by the media. The regnant story line, only sometimes exaggerated, was that of a progressive majority repeatedly and sometimes unscrupulously frustrated by a small clique of reactionaries.²

The important moment with respect to contraception did not occur until late October 1964, during the deliberations on the section on marriage and the family in the document that was to become *Gaudium et spes*. Even though Pope Paul VI had instructed the Council Fathers that birth control was not to be treated in this text, four bishops offered remarks that were relevant to the issue during a Council session. The bishops were Cardinal Emile Leger of Montreal, Cardinal Leo Joseph Suenens of Malines-Brussels in Belgium, Maximos IV Sayegh, Patriarch of Antioch, and Cardinal Bernard J. Alfrink of Utrecht, Holland. These hierarchs called for equal emphasis to be given to the procreative and unitive aspects of sexual intimacy, a reexamination of what is meant by "nature" in light of new scientific discoveries, greater sensitivity to the pastoral concerns expressed by married couples, consideration of a proposal that fecundity in marriage be reoriented to the couple's life together as a whole rather than limited to specific

¹ Ibid., 212.

² Tentler, *Catholics and Contraception*, 206.

sexual acts, and more research into these and other related questions.¹ The media did not miss this opportunity. As Msgr. George Kelly observed, “All of these prelates[, especially Leger, Suenens, and Alfrink,] were quoted at length in the press and in articles, while outside of official documents there was little extended or sympathetic treatment of traditional views held by Cardinal[s] [Alfredo] Ottaviani, [Ernesto] Ruffini [of Palermo] and [Michael] Browne [of the Dominicans].”² The dissenting remarks of the four prominent churchmen lent even greater credibility to the prospect that a change the Church’s policy on contraceptives could be imminent.

In other reporting, even more bishops admitted that they were hesitant to proscribe contraceptives. The first bishop to make this admission publicly was Wilhelm Bekkers of Den Bosch in Holland. In a television interview on March 21, 1963, he said that deciding how large Catholic families should be and choosing the means for determining the number of children ought to be left to married couples’ consciences.³ Bekkers also suggested that the pill, while not morally ideal, might be permissible in certain circumstances. About six months later, the entire Dutch hierarchy issued an official press release that “was in substantial agreement with Bishop Bekker’s position.”⁴ Another bishop, Thomas J. Roberts, S.J., who had retired from the diocese of Bombay, then wrote an article for April 1964 issue of *Search*, “a liberal British Catholic newsletter.” In this piece, Roberts confessed his personal doubts regarding the ban on contraception and called upon the Councils Fathers to take up the matter.⁵

But the level of expectation that the media was able to generate from these Council speeches paled in comparison to that caused by leaked information from a special papal committee created to study new methods of contraception. In March 1963, amid the growing interest in contraceptives, Pope John XXIII established the Pontifical Commission for the Study of Population, Family and Births, popularly known as the Papal Birth Control Commission. The Commission’s general purpose was to advise the pope on how to address the moral questions surrounding the use of contraceptives. Members included cardinals, bishops, theologians, and laypersons from academic disciplines in fields related to human reproduction and population. At the Commission’s fifth and last meeting from April to June of 1966, the majority voted in favor of permitting the use of contraception. The “Majority Report,” formally titled, “Schema for a Document on Responsible Parenthood,” was presented to the pope shortly after the

¹ Valsecchi, *Controversy*, 127-30.

² Kelly, “The Bitter Pill,” 42.

³ Shannon, *The Lively Debate*, 47-48.

⁴ *Ibid.*, 49.

⁵ *Ibid.*, 57-58.

Commission's final meeting. Also given to the Holy Father "was a three-foot stack of background material – twelve bound volumes including summaries of all the meetings, summaries of the summaries, [and] all the papers and reports prepared by individual members and teams."¹ Many of these papers and reports were attached as appendices.² However, before Paul VI could write *Humanae vitae*, "portions [of this bound collection] were leaked to the press and published in the *Tablet* and the *National Catholic Reporter* in spring [April] 1967."³ The three leaked documents were the "Majority Report," Appendix VI, which was a draft report written by the minority of the Commission who favored retaining the Church's teaching against contraception (the "Minority Report"), and Appendix V that "reads like a rebuttal to the Minority Report."⁴ The leak's impact was immediate:

The story made for front-page news in the secular as well as the Catholic media and greatly intensified expectations, at least among the laity, that the teaching [prohibiting contraception] would soon be amended. It also endowed the reformist ranks with a welcome aura of legitimacy: especially in the context of papal silence, the commission majority seemed to speak with something approaching true ecclesiastical authority, despite the body's advisory status. Not surprisingly, even hitherto obedient laity turned in ever-increasing numbers to modes of contraception still formally forbidden by the Church.⁵

The Effectiveness of the Counterinsurgency Strategies

By the time Pope Paul VI finally issued *Humanae vitae* in July 1967, the attitude among Catholics, especially in the more developed Western countries, was unreceptive. Fr. Andrew Greeley's 1976 study, *Catholic Schools in a Declining Church*, showed that, shortly after the encyclical appeared, there was "a massive increase in apostasy among American Catholics," and a sixth of those who remained in the Church stopped attending Mass.⁶ For Greeley, *Humanae vitae* proved to be "the straw that broke the camel's back."⁷ This particular turn-of-phrase is most apt because the three straws of isolation, doubt, and false promises were already on the backs of Catholics, and all three had been put there as a result

¹ Robert McClory, *Turning Point: The Inside Story of the Papal Birth Control Commission, and How Humanae Vitae Changed the Live of Patty Crowley and the Future of the Church* (New York: Crossroad, 1995), 129.

² Cf. Janet E. Smith, *Humanae Vitae: A Generation Later* (Washington, D.C.: The Catholic Univ. of America Press, 1991), 12-13.

³ *Ibid.*, 12.

⁴ *Ibid.*, 13.

⁵ Tentler, *Catholics and Contraception*, 228-29.

⁶ Andrew M. Greeley, William C. McCready, and Kathleen McCourt, *Catholic Schools in a Declining Church* (Kansas City: Sheed and Ward, 1976), 149.

⁷ *Ibid.*, 152.

of the counterinsurgent strategies implemented by the birth control movement. Those strategies have proven to be effective not only prior to Paul VI's encyclical but also afterward.

The three methods of counterinsurgency are not the only reasons why Catholics became predisposed to reject *Humanae vitae*, but these methods ought not to be excluded from any complete explanation. Isolating the Church from potential allies means that Catholics found themselves in an increasingly pro-contraceptive social environment. Pressure to conform to that environment has continued to increase. Next, presenting well-intentioned motives for using contraception and associating the pill with already defined natural law principles challenged Church leadership to respond on behalf of their flock. At length, the chief executive officer of the magisterium did craft a response, but too much time had passed to prevent skepticism from taking root in the minds of the faithful.

These first two techniques merely set the stage for the astonishing success of the third. According a 1960 Gallup poll, the number of American Catholics who expected a change in Church teaching was already at 60 percent.¹ A *Newsweek* poll conducted in 1967 revealed that the level of expectation had risen to 73 percent. When their hopes were dashed in 1968, the Catholics who wanted contraceptive use declared morally licit placed the blame for this disappointment not on the birth control movement that had cultivated the unfulfilled expectations but on the Church for not fulfilling them. The counterinsurgents' desires for the Church had become what many Catholics wanted, too.²

Despite of attempts by some Catholic leaders to resist the methods of counterinsurgency after *Humanae vitae*, those methods still foster dissent in the Church. The proportion of American Catholics who dissented from the encyclical had reached a new record of 83 percent by 1974.³ In order to stabilize or reduce this number, supporters of the Church's teaching endeavored to offset the counterinsurgent techniques in the following ways. Orthodox Catholics sought new allies among scientists in the field of medicine. So far, the collaboration has resulted in new methods of Natural Family Planning, which are more reliable than the original rhythm method, and a greater appreciation of the health risks one faces when using the pill, which the World Health Organization designated as a "Group I carcinogen" in 2005. Bringing clarity to the minds of young Catholics

¹ Tentler, *Catholics and Contraception*, 220.

² Militarily speaking, when counterinsurgents create an expectation that does not come to pass, blame is usually assigned to the counterinsurgents themselves for failing to deliver on their promise. However, the difference in the case of the confrontation between the birth control movement and the Catholic Church seems to be that the former were able to cultivate among Catholics an expectation of what the Church ought to do, instead of some goal for which birth control activists would be held responsible.

³ Greeley, et al., *Catholic Schools in a Declining Church*, 317.

about traditional sexual morality began with Pope John Paul II's six-year series (September 1979 to September 1984) of public audiences on theological anthropology. These talks became foundation for catechetical programs in the "Theology of the Body." To carve out some turf in the media battlespace and thereby to try to manage expectations, faithful Catholics have finally created broadcast outlets such as Relevant Radio and the Eternal Word Television Network. Even so, the pro-contraceptive counterinsurgency marches on. According to a worldwide survey of Catholics conducted in 2014 by the Spanish-language television outlet Univision, the vast majority of Catholics across the globe now want the Church to approve the use of contraceptives.¹ Although the level of dissent in the United States seems to have leveled off at around 80 percent, the only continent where there continues to be a slight plurality that agrees with the Church's teaching is Africa.

Conclusion

The Town Hall incident during the First American Birth Control Congress in 1921 can be taken as the moment when counterinsurgency strategies started to be used against the Church's teaching that conception is immoral, and thus the Church now finds herself having suffered at the hands of those strategies for almost a century. Granted, the methods of isolating the Church from her allies, undermining Catholic confidence in Church leadership, and cultivating the expectation of doctrinal change were implemented in a rather haphazard manner, but even unorganized implementation still did not afford the Church an opportunity to muster an adequate defense. Until such time as when measures can be found to effectively neutralize these methods of counterinsurgency, all the Church can do is to keep teaching. There are two reasons for staying the course. First, the Church can never be completely defeated. As "[then Secretary of State] Henry Kissinger famously observed, at the height of the Vietnam War, 'the guerilla [or insurgent] wins if he doesn't lose.'"² In other words, insurgents will achieve victory as long as they are able to operate and so have the opportunity to outlast their opponents. The Church's hope that victory will eventually be achieved rests on the promise made by Christ himself that his kingdom shall undoubtedly prevail.³

The second reason for continuing to set forth the teaching of *Humanae vitae*

¹ Cf. *Voice of the People* (New York: Univision, 2014), 6; http://univision.data4.mx/resultados_catolicos/eng/ENG_catholic-survey.pdf. The survey was conducted in the following countries: Argentina, Brazil, Colombia, Democratic Republic of Congo, France, Italy, Mexico, Philippines, Poland, Spain, Uganda, and the United States.

² Proctor, "Defining the Media Battlespace," 7.

³ Cf. Matthew 16:18.

is more practical. Consider a lesson from an account of St. John the Baptist in the Gospel of St. Mark. King Herod Antipas had St. John the Baptist arrested for denouncing Herod's marriage to his brother's wife, but before John was executed, he was given an audience with the king. When he was brought before Herod Antipas and presumably challenged the king's adulterous marriage, the text says that the king "was much perplexed; and yet he heard him gladly." Reflecting on this passage, Fr. Paul Check writes:

Why did Herod hear John "gladly"? Because Herod was made for the truth, and he could recognize that John preached the truth to him with an evident charity. So Herod was drawn to that truth. Yet at the same time, Herod was "perplexed" because John was calling him to step away from something – adultery [that] was harming Herod's soul.¹

Teaching the message of *Humanae vitae* about contraception works in similar manner. Whether or not the Catholic Church's prohibition against contraceptives is overtly rejected, the doctrine remains something that the vast majority of people find perplexing. Even so, if people are willing to listen, and because everyone is "made for the truth," they may yet hear that doctrine gladly.

¹ Paul N. Check, "Introduction," in Daniel C. Mattson, *Why I Don't Call Myself Gay* (San Francisco: Ignatius, 2017), xxv.

Putting Miracles in Their Place

Glenn Statile*

ABSTRACT: In this essay I argue that miracles can be rationally defended without stretching the limits of logical respectability. Hume's famous or notorious critique of miracles in section X of *An Enquiry Concerning Human Understanding* serves as the *locus classicus* for my arguments and reflections. Among his mistakes, both philosophical and rhetorical, Hume fails to affirm a consistent position as to whether scientific laws are to be understood as necessary and inviolate on the one hand, or merely as constant conjunctions stemming from contingent sets of factual relations on the other. I side with John Polkinghorne that miracles can be unproblematically interpreted as an extraordinary manifestation of a normal state of physical affairs.

DAVID HUME WOULD NOT have been overly pleased with the title chosen for a famous 1947 film about the ritual annual shopping spree that takes place at Macy's department store in Manhattan during the height of the Christmas season. It is not so much that Hume bore any specific grudge against 34th Street, but he certainly would not have endorsed the view that this locale was, or is, or is ever likely to be, a venue for miraculous activity. Brimming with a confidence that borders on immodesty, Hume formulates what many, but by no means all, philosophers consider to be a devastating attack upon miracles in Section X of *An Enquiry Concerning Human Understanding*.

Exceptionless Laws and the Lure of Lourdes

Although many a child of the Enlightenment considers Hume's lambasting of miracles the final word on this subject, I endorse the contention that, despite its notable stylistic felicity, it never was, objectively speaking, much more than an old-fashioned begging of the question. John Earman is more vigorous in his criticism of Hume's analysis of miracles in his book *Hume's Abject Failure: The Argument against Miracles*. The thesis I will defend is that the concept of miracles can be made rationally respectable. They are not a bad joke or some trick played upon inviolate natural laws.

William James once suggested that the pursuit of what one hopes for, rather than the avoidance of what one fears, can be, pragmatically speaking, a rational

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enterprise. If the defense of miracles is indefensible, because they are unbelievable, then how could Emile Zola, a pundit with a ravenous appetite for railing against purported superstition, have affirmed the existence of miracles at Lourdes? In his case, however, the miracle of Lourdes is not that people are miraculously healed of their incurable diseases, but that they seem to suffer no ill effects from their submersion in the unsanitary waters recently bathed in by those afflicted with various diseases of the skin. As all students of logic will appreciate, an appeal to ridicule (*argumentum ad festivitatem*) does not an argument make.

The Gospel according to David Hume

The two parts of Hume's essay on miracles revolve around three principal concerns: (1) the veracity of human testimony; (2) the inviolability of the laws of nature; and (3) the efficacy of evidence. In this list Hume's position in regard to (3) is based on his views in regard to (1) and (2). The connotation of the word "veracity" here is twofold: lack of veracity can imply, or at least in some practical sense involve, either lying or being mistaken. Hume's empiricist assault upon superstition in general and miracles in particular distinguishes between acceptable and unacceptable degrees of belief in relation to purported eyewitness testimony. Such testimony may be wrong because probability, he contends, is overwhelmingly against it, or because many unintelligent and uneducated people are motivated to lie for personal reasons, often having to do with understandable human inclinations to believe in something fantastical. In any case Hume maintains that miracles are unworthy of our belief in an age of enlightenment. Hume's attack on miracles also encompasses what he takes to be both the arguably logical and ontological conflict between miracles and the laws of nature of a distinctly Newtonian pedigree. Those of us who have successfully negotiated the rite of initiation better known as higher education in order to obtain professional status, building up a tower of debt in student loans in the process, know only too well what it means to become poorer by degrees. With such a seeming preponderance of reasons from Hume's perspective in favor of their rejection, miracles, Hume thus contends, do not merit a high degree of belief.

While William James is known for introducing radical empiricism, which advances the thesis that all types of evidence be treated impartially, one might inquire as to whether Hume gives miracles a fair hearing. He most certainly does not. He does, however, beg the question. He assumes that, metaphorically speaking, miracles have no chance whatsoever of being true. Hume was thus ahead of the curve at least in terms of allowing theoretical prejudice regarding the prospective inviolability of scientific laws to stand in the way of entertaining the possibility of a miraculous event. Such theory-laden influence on beliefs will become a commonplace in mid-twentieth-century philosophy of science. Just

think, for example, of how all of the evidence in favor of Wegner's theory of continental drift was both rejected and summarily ridiculed until it became possible to explain it on the basis of plate tectonics. Just as Einstein contradicts himself in disavowing free choice on materialistic grounds while vouching for the role of the speculative imagination in creating scientific theories, Hume also contradicts himself concerning miracles. Hume maintains that there can be no contradiction where relations between facts are concerned and miracles in that the latter are not part of the tautological domains of logic and mathematics. The espousal of such a position is at odds with exceptionless laws. Additionally, if scientific laws are inviolate, then how can they be equated with nomological statements based upon constant conjunction? He seems thus, in his philosophy, to be committed both to a regularity thesis about scientific laws, as he is so often construed, as well as to a necessitarian interpretation of physical laws. How else might laws be inviolable?

The word "miracle" derives from the Latin *miraculum*, meaning something wonderful, which stems from the Greek *thaumasion*. To claim that miracles violate the laws of nature without a shred of evidence is tantamount to joining company with the derisive sentiment that emboldened some medieval thinkers to condemn universals with the epithet *flatus vocis*. In a tautologous sense a necessarily true natural law could never be violated because such a natural condition can, by definition, never misbehave. Fats Waller, the composer of the swing era classic *Ain't Misbehavin'*, would undoubtedly concur. While we can misread nature, there are grounds for claiming that, however it behaves, unalterably or not, its course can correctly be characterized as the course of nature. How nature behaves, even if seemingly at odds with some allegedly fixed law of nature, is how it is supposed to act. In contemporary philosophy of science Thomas Kuhn refers to the external consistency of the laws of nature as one of the conditions for a viable or good scientific theory. If Law (1) is inconsistent with Law (2), then something is rotten in the state of scientific theory. If a newly proposed scientific hypothesis is at odds with a longstanding law then the scientific community will be disposed to favor the established law. Hume's appraisal of miracles in relation to scientific laws is somewhat similar to the case of the comparison of a new scientific hypothesis to an entrenched scientific law except that the hypothesis is thought of as merely mistaken rather than as a logical improbability or impossibility.

Someone who, like Hume, stands steadfast by the dictum that facts cannot contradict each other should not be so quick to reject miracles. To do so is but a poor expression of modernistic honor. Those who would characterize Hume's attitude toward miracles in a charitable way engage in an act of imitation. In the *Treatise of Human Nature* Hume claims that he left out any mention, and hence

condemnation, of miracles so as not to give offense to anyone. Given that his earlier attempt in the *Treatise* to become the Newton of human nature fell on deaf ears, he need not have worried.

While anomalies in science might conflict with some specific scientific law, the kind of anomaly or natural aberration known as a miracle can be taken to threaten the very notion of exceptionless scientific laws in general. Miracles thus are superanomalies from the perspective of scientific determinism. Miracles in this case would require a preexisting conception of a natural order that they violate, which in turn, historically speaking, arose from a religious view of a divinely ordered creation. Interestingly, allowing for the existence of miracles means, by only the smallest of inferential leaps, further allowing for the existence of a God who performs them. To the question of whether nature is free in principle to surprise those who espouse a scientifically deterministic mindset, no scientific jury has yet rendered a satisfactory verdict to the contrary. Derision is the stock response. We can know in principle, for example, that a deductive chain of reasoning leads to a predictable conclusion without foreknowledge or confidence of what to expect in advance, or even at various intermediate links in the inferential chain of reasoning along the way. Analogously, a belief in the inviolability of scientific laws, which is never fully justified but only a belief, does not logically prevent the appearance of some unexpected and seemingly miraculous phenomenon.

Let us consider the formulation of punctuated equilibrium theory in relation to evolutionary biology. This theory was developed in order to salvage a biological explanation for organismic development despite the anomalous (nonnaturally selective) character of the Burgess Shale's arguably abundance of evidence in favor of the sudden emergence of various anatomical traits. A similar type situation exists in the case of free choice. Is human volition a phenomenon that exists apart from the circuitry of a deterministic world? Is free choice a fifth and unknown force that supplements the four fundamental forces of nature (gravity, electromagnetism, strong and weak nuclear forces)? Do miracles interrupt the normal course of natural law just as punctuated equilibrium explains a period between those governed by natural selection, or free choice insinuates itself into an otherwise deterministic universe, if this is not a contradiction in terms? Philosophically speaking, the problem posed by so-called miracles to science remains an open question.

The radical empiricism of William James requires a fair hearing for all claims. Theories, according to James, should not be dismissed summarily out of a predilection or prejudice against some course of natural behavior. If essentially good people can do bad things and still remain good, and human nature remains rational despite our best and unremitting efforts to indulge the excesses of caprice,

then what is wrong with harboring the view that a lawlike nature might very well be endowed with an analogous degree of freedom? Perhaps those stirring words of Rousseau in regard to his project for reclaiming human nature can also apply in an analogous way to the possibility of recognizing the reality of miracles in the natural world. The Enlightenment mindset that still very much pervades our scientific worldview has done its best to preserve the commitment that nature is everywhere in chains.

Hume divides his argument against miracles into two main parts. In part one he establishes a straightforward litmus test for determining the rare if possible circumstances under which any testimony in favor of some purported miracle might be rationally defended in theory. In part two he withdraws, in practice at least, the olive branch of mere possibility extended to believers in the previous part by outlining four specific ways in which actual historical testimony in support of miracles has in his view failed this theoretical test quite miserably. Thus the general thrust of Hume's overall conclusion in regard to the miraculous might appear to be that while miracles cannot be denied on *a priori* grounds, they can nevertheless be dismissed as a practical possibility. Hume equates such a dismissal with what he calls a proof, which amounts to a high level of inductive certainty whose standing is somewhere between the opposing Lockean logical extremes of the demonstrative and the merely probable.

Hume's test for miracles as presented in part one of his argument is worded as follows:

No testimony is sufficient to establish a miracle, unless the testimony be of such a kind, that its falsehood would be more miraculous, than the fact, which it endeavours to establish; and even in that case there is a mutual destruction of arguments, and the superior only gives us an assurance suitable to that degree of force, which remains, after deducting the inferior.¹

An immediate problem springs to mind if we reflect upon this test for miracles in light of another statement made by Hume in part one of his argument. For in the paragraph immediately preceding the passage just quoted Hume writes as if he explicitly wanted to disallow even the logical possibility of miracles, by announcing them to be violations of the laws of nature. But if Hume had indeed harbored the view that miracles are logically at odds with the unalterable behavior of nature, then he would have had no easily discernible rationale, that is no good Bayesian reason, to formulate his test of the miraculous as a contest between competing claims in the first place.² There is no good reason to dismiss in practice

¹ David Hume, *An Enquiry Concerning Human Understanding* (hereafter *ECHU*), in *Enquiries Concerning Human Understanding and Concerning the Principles of Morals*, 3rd ed. (Oxford: Oxford Univ. Press, 1975), sec., pp. 115-16.

² J. H. Sobel, "On the Testimony of Evidence for Miracles: A Bayesian Interpretation

what is already forbidden in theory, for if the prior probability of a miraculous event = 0, then no future evidence can possibly elevate it to actual event status. As a good materialist Hume might wish to reject miracles, but as an equally good empiricist he cannot dismiss them out of hand as they fall within the province of factual relations in which the principle of contradiction has no role to play.

I maintain that Hume does not really reject the logical possibility of miracles as violations of the laws of nature, although he is often misinterpreted, not without decent reasons, as having done so.¹ It would be difficult for him to get away with such a rejection since that would involve an *a priori* restriction upon the experience that he as a thoroughgoing empiricist celebrates as the ultimate arbiter of factually constituted beliefs. On the other hand, it does seem legitimate to suggest that the impossibility of miracles for Hume could function in the capacity of a strong background limit for the diminution of probabilities that emerges from his disputation of testimony affirming miracles in parts one and two of his argument.

Imposing such a limit would allow Hume to have his empiricist cake and eat it too. For he could thus allow the possibility of miracles, thus avoiding giving offense to the realm of facts, while at the same time trying to show that their impossibility comes as close as possible to a deductive dismissal without crossing over the metaphysical line of demarcation into the realm of relations between ideas. Just as many theists view Enlightenment deism as having been a first step, even if unintended, toward contemporary atheism, one might want to interpret Hume's cautionary approach to the logical possibility of miracles in light of the laws of nature as perhaps a first step on a slippery slope leading to their eventual outright rejection upon more sophisticated scientific grounds. The ironic catch here is that the growing sophistication of science since the time of Hume easily accommodates the possibility of the miraculous in light of an increased latitude in our understanding of scientific laws.

Hume defines miracles in two different ways in relation to the laws of nature. Let us designate these as the anomalous and the religious definitions respectively. The anomalous definition is to be found in the body of Hume's text, while the

of David Hume's Analysis," *Philosophical Quarterly* 37, no. 147 (1987): 166-86. In this article Sobel makes a case for Hume as an intuitive Bayesian. David Owen does much the same in "Hume versus Price on Miracles and Prior Probabilities: Testimony and Bayesian Calculation," *ibid.*, 187-202. Owen employs the theorem of Bayes to arrive at Hume's conclusion. He also argues for a similarity between Bayes' theorem and the structure of Hume's main argument against miracles based upon the weighing of opposing testimony.

¹ Robert J. Fogelin, *A Defense of Hume on Miracles* (Princeton, NJ: Princeton Univ. Press, 2003). Fogelin is one recent author who holds the contrary view, as I do, that Hume does not reject the possibility of miracles on an *a priori* basis. He divides misinterpretations of Hume's treatment of miracles into two categories: the gross and the subtle.

religious definition is relegated to a footnote. The anomalous definition is this: “A miracle is a violation of the laws of nature; and as a firm and unalterable experience has established these laws, the proof against a miracle, from the very nature of the fact, is as entire as any argument from experience can possibly be imagined.”¹ The religious definition is this: “A transgression of a law of nature by a particular volition of the Deity, or by the interposition of some invisible agent.”² Hume drew his immediate inspiration for the view that miracles might be defined as violations of the laws of nature, the latter being understood in the strictly Newtonian sense, from the deistic wars against the Christian dogmas of the Resurrection and the Incarnation that were still being waged during his lifetime.

The belief that miracles are logically at odds with nature can be traced back even further to the time of the Gnostic controversies during Roman antiquity. Recall that the Gnostic heresy, a form of ontological dualism, maintained that physical laws govern the inherently debased material world, while miracles were said to serve as manifestations of the esoteric dimension and fount of knowledge that allows access to the elevated realm of pure spirit only to the elect. Even earlier, Aristotle had espoused the view, as expressed by numerous medieval commentators, that God did not intervene in sublunary affairs. Augustine eventually rejected Gnostic teaching and came to proclaim that the material world too was the handiwork of spirit. This led him to view miracles, not as contrary to nature, but only as contrary to what we know about nature. Moreover, he pointed out that if God is the author of all reality then there exists but a fuzzy distinction between the natural and the miraculous.³

An important difference is easily discernible between Hume’s anomalous and religious definitions of miracles. According to the anomalous definition, miracles violate the laws of nature. While religious miracles also exceed our natural expectations, they are further said to be tied to some supernatural cause. One of Hume’s contemporaries, the Reverend William Warburton, accused Hume of wanting only to eliminate in principle miracles of the religious kind. If Hume wants to disallow only miracles of the religious variety, this might mean that he is either implicitly casting doubt upon the actual existence of any supernatural cause whatsoever, namely, God; or upon the veracity of religiously motivated testimony in comparison to other kinds of testimony. He certainly wants to distance himself from the type of definition given to miracles by Aquinas in the *Summa contra gentiles* at III.98-103, where it is said that miracles are “those things which are done by divine agency beyond the order commonly observed in

¹ *EHC*, 114.

² *EHC*, 115.

³ Augustine, *City of God*, trans. Marcus Dods (New York: Modern Library, 1950). See bk. XXI 6-8, pp. 771-78; bk. XXII, 8-10, pp. 819-33.

nature,” as well from that of Pope Benedict XIV, Hume’s contemporary, who characterized miracles as events endowed with a religious significance.

Hume entertains the possibility of what might be labeled a purely anomalous miracle involving a “total darkness over the whole earth for eight days.” Let us quote the relevant passage:

Thus, suppose, all authors, in all languages, agree, that, from the first of January 1600, there was a total darkness over the earth for eight days: suppose that the tradition of this extraordinary event is still strong and lively among the people: that all travelers, who return from foreign countries, bring us accounts of the same tradition, without the least variation or contradiction: it is evident, that our present philosophers, instead of doubting the fact, ought to receive it as certain, and ought to search for the causes whence it might be derived. The decay, corruption, and dissolution of nature, is an event rendered probable by so many analogies, that any phenomenon, which seems to have a tendency toward that catastrophe, comes within the reach of human testimony, if that testimony be very extensive and uniform.¹

In this passage we must not allow Hume’s deontological prodding to pass unnoticed. While it is Hume who serves as the *locus classicus* for logically segregating descriptive facts from prescriptive norms, this passage seems to adopt a policy of “do as I say and not as I do” by the way in which he repeatedly tells us what we ought to believe. While I grant that Hume is not preaching any customary call to moral action in his instruction of what we ought to believe and do in regard to factual testimony, his choice of the word “ought” by itself warrants some attention. If we can assume that in this passage Hume does not intend to flatly contradict himself in regard to the practically ironclad rejection required by the anomalous definition of miracles, then it would seem that some interpretive insight is required in order to understand fully why he is prone to accept so easily the prolonged darkening of the sky when he so easily rejects physical anomalies of comparable acclaim and verification on the sole basis of their religious affiliation. I would suggest the possibility that Hume in this instance betrays his distaste for anti-Enlightenment Christianity more than he lives up to his reputation of an empiricist philosopher par excellence.

If the anomalous definition of miracles is not to be interpreted literally as a logical constraint upon their very possibility, then what Hume means by a “violation” and by a “law of nature” is up for grabs. In John Locke’s “A Discourse on Miracles” a miracle is defined as a sensible operation above the comprehension of the spectator that is only seemingly contrary to nature and is thought to be divine.² This definition conveys the skepticism of the card-carrying Newtonian

¹ *EHC*, 127-28.

² John Locke, “A Discourse on Miracles,” in John Earman, *Hume’s Abject Failure:*

empiricist and certified deist. It hedges its bets in all the right places but still succeeds in indicting belief in miracles without actually admitting that such a belief involves the breaking of any laws of reason. Hume's essay on the miraculous taken as a whole allows for the possibility of miracles, although his anomalous definition, torn from the context of everything else that he says, seems on the surface to indicate just the opposite.

Although a professed follower of Newton, Hume offers a working understanding of a scientific law or law of nature that needs to have been sufficiently nonrigorous so as to allow him to avoid contradicting himself in his anomalous definition of a miracle. For Hume, if we adopt this perspective of nomological flexibility, a law of nature could not have been understood as an invariant causal directive given to nature, but only as a description of the pattern that has revealed itself in the past by constant conjunction to careful and astute observers. There is no *a priori* reason, however, as to why such a pattern ought necessarily to continue into the indefinite future.

But even if miracles represent momentary interruptions to nature's laws, they need not be construed as chronic violations. The issue of the logical status of miracles is captured well in the following quip. As C. S. Lewis puts it, "miraculous wine can still intoxicate us while miraculous conceptions still lead to pregnancy."¹ Existing laws of nature for Hume, even though revisable, might nevertheless still function as pointers toward some ultimate set of laws that cannot suffer any such violations or revisions. But to countenance such a view would be to reinterpret Hume as a non-Humean. In section 8 of the *First Enquiry* Hume argues that human liberty is an illusion, for all human action is thought to be as determinate as the laws of nature that control what we do. But if the laws of nature can in principle accommodate what might seem to be exceptions to inviolate rules, then why should human choices be completely denied the prerogative and privilege of self-direction?

Putting Miracles in Their Proper Place

From a more modern quantum perspective miracles can easily be redefined in scientific terms as involving a small but real subset of all quantum possibilities. God could exploit the uncertainty of quantum events without altering the framework or rules in which and by which science operates. God need not violate any laws of nature in order to still act within them. Such a natural view is neutral as to whether God actually exists. But if he does exist, then it would be scientifically wrong from our own post-Humean scientific vantage point to view

The Argument Against Miracles (Oxford: Oxford Univ. Press, 2000), 114-20.

¹ C. S. Lewis, *Miracles* (London: HarperCollins, 1947), 95.

him as having been exiled by the rules of a deistic universe that he himself created. While Hume was no quantum theorist, it is nonetheless interesting that pushing empiricism toward its limit as he did allowed him to sow the seeds of adjustability into the concept of scientific law, although he did so both kicking and screaming.

Despite rancorous religious versus antireligious division as to whether miracles can or actually do occur it seems relatively easy to establish a logical framework for what to do with them that falls short of automatically consigning them to those consuming flames of which Hume was so overly fond. C.S. Lewis in his famous book *Miracles* has already done us the favor. What follows is my adaptation of the framework he articulates in this book.

Three Stratagems for the Evaluation of Miracles

(1) Evaluation of flaws in testimony: Whether on account of lying, softness of the brain, or just plain observational errors, Hume provides a service in reminding us of the high degree of vigilance needed to properly address miraculous claims.

(2) Adjustment of prior understanding of a specific scientific law, or of the concept of scientific law in general, in order to accommodate an alleged miraculous event. In the parlance of modern philosophy of science, for example, the notion that a scientific law equates to a generalization that obeys counterfactuals begs the question against the possibility of miracles. If (x) were to occur, then we should expect (y), and never the miracle (z), to happen. But this simply incorporates a denial of the miraculous into the definition of a scientific law. Such a formulation is undeniably underhanded and unscientific. Philosopher of science Nancy Cartwright has taught us an important lesson in her various attempts to demonstrate how the laws of physics lie. *Ceteris paribus* conditions, for example, act as nomic guardian angels that safeguard scientific laws from being provably false.

(3) Discovery of features of an alleged miraculous event that would allow it to be subsumed within the law(s) it presumably violates. We must keep in mind that contemporary philosophers of science still clash over whether scientific laws are to be best understood as: (a) descriptive formulations which merely coordinate the data of observation; or as (b) an application of the law of averages; or perhaps as (c) necessary truths that in principle point us toward a true realist ontology of material reality at its deepest level.

An interesting parallel can be drawn between John Polkinghorne's definition of a miracle and Hume's reference to the prince from the subcontinent of India whose lifetime of experience in a torrid climate excluded his ever having witnessed the conversion of water from its liquid into its solid state. John

Polkinghorne, a former Gifford lecturer, a physicist and former associate of Paul Dirac, as well as an Anglican priest, says the following in regard to miracles:

A simple parable drawn from science may help here. The laws of nature do not change, they are unfailingly consistent, yet the consequences of these laws can change spectacularly when one moves into a new regime. Think of heating up some water. The temperature rises steadily in a perfectly uniform way, until it reaches boiling point. Then, something happens that, if we had not observed it everyday of our lives, would astonish us. The steady rise is halted and a small quantity of water turns into a large quantity of steam. Physicists call this a 'phase change'. We have moved from the liquid regime to the gaseous regime. However, the laws of nature did not change at 100° C, it is only their *consequences* that became radically different. It is a similar kind of account, with profound continuity, underlying apparently continuous behavior, that we must seek if we are to understand the miraculous.¹

Polkinghorne certainly construes the miraculous in more scientific terms than does Aquinas in the *Summa contra gentiles* at III.100, where the latter states: "It is not against the principle of craftsmanship if a craftsman effects a change in his product, even after he has given it its first form." Nevertheless, being able to explain a suspected miracle in normal scientific terms does not in principle preclude the event in question from being tied to some supernatural cause. For this supernatural interpretation to be the case, however, such that a specific situation or set of circumstances could exist whereby God might choose to work within a natural order that is not fully known to us rather than to abruptly preempt it, would require a degree of divine foresight that might be said to beg the question of whether such a God actually exists.

While I do not want to embark upon any analysis of this strong Thomistic sense, or what one might call a pure religious sense, of the miraculous, it is fair to point out that such religiously inspired miracles are usually if not always thought to halt or interfere with the continuity of nature's laws only temporarily, and not to suspend them from governing the ways of the world in the future. But for detractors of miracles these momentary glitches in the cosmic order are bad enough. Rationally speaking, their criticism is a fair one.

As indicated, Polkinghorne's more scientific approach to the miraculous is quite reminiscent of what Hume has to say about the Indian prince near the end of part 1 of his essay on miracles in the *First Enquiry*. Furthermore, Hume was himself expanding upon remarks of a similar nature made earlier by both John Locke and Sir Thomas More. Hume regales the reader with the tale of the Indian prince who refused to believe testimony that stated that water had been transformed into frost. For to have done so would have involved an excessive

¹ John Polkinghorne, *Quarks, Chaos and Christianity* (New York: Crossroad, 1994), 82-83.

deviation from the state of nature to which he had been accustomed. Hume maintains that the prince reasons correctly in rejecting such testimony. In a footnote, however, he maintains that the denial of such a phase change as contrary to the prince's experience involves only a denial of what is physically extraordinary. Hume does not want to concede to anything miraculous when the merely extraordinary is at stake.

That Hume does not do justice to this exemplary problem of his own choosing is undeniable. He is mincing words and engaging in a language game that cannot camouflage the Augustinian insight that suspected miracles coexist on a continuum of possibilities with other more prosaic physical events. The distinction between them is fuzzy. If purported miracles can be explained in terms of efficient causality – meaning science, without us reneging in the least in regard to the possibility of some final causality that may also be at work – then why cannot so-called normal scientific relations also be construed as in some way connected to the miraculous, thus ratifying the poetic claim of the Jesuit poet Gerard Manley Hopkins that the whole world is charged with the grandeur of God?

I do not think that Hume would agree with Hopkins, or even with me, but I am confident that he would appreciate the sentiment expressed upon the sign that is posted near the entrance to the renowned healing shrine of the grotto in Lourdes, France where people continue to flock by the millions in the hope of a miraculous cure. For those who do not believe, no explanation is possible; for those who already believe, no explanation is necessary.

The notion of a miracle as impossible or anomalous may seem to require as a necessary condition that nature's laws are necessary and unchangeable. Otherwise they would engender neither awe nor a tidal wave of doubt. Even if there are necessary laws of nature because things possess specific natures, as Aristotle thought and taught, we can never penetrate to their inner or noumenal nature, as Kant thought and taught. This means that the denial of the possibility of miracles on the basis of violating scientific laws that are in principle inviolable can never be anything more than a logical exercise.

While the secular and scientific world may deny so-called miracles in principle, it is curious that the Church approves them only when science is brought to its explanatory knees, that is, when science fails to explain them or, euphemistically, defends its vanity with the promissory note of a future explanation. Usually when a miracle is claimed it is accompanied by legitimate doubts. In the case of a so-called miraculous cure, the cure is a *fait accompli* even if its adjectival appellation as miraculous is affirmed only through the back door of a failure of scientific explanation. It is perhaps ironic that the concept of a miracle, construed as anathema to a proper scientific attitude, can stimulate and

challenge us to grapple with all of the factors relevant to whether the behavior of nature is ultimately necessary or contingent.

Please allow me to conclude by, perhaps ironically for an essay affirming the reasonability of the concept of the miraculous, allowing Albert Einstein to have the last word: “There are only two ways to live your life. One is as though nothing is a miracle. The other is as though everything is a miracle.” I leave it to your logical sensibility as to whether the great scientist is guilty of a false dichotomy.

The Coronavirus and the Coming Fall Semester*

*Peter J. Colosi***

ABSTRACT: The spring semester of 2020 will go down in academic history as the mad scramble to turn all courses into online versions on a dime. One would have hoped that would have been a temporary solution to a short-term dilemma. Unfortunately, it looks as though there is a drive to make online education permanent and ubiquitous. I describe the events of that semester, the various options being proposed for the fall semester of 2020, and, via a description of key features of a rich educational experience on campus and in the classroom, I issue an urgent call to perceive clearly the dangerous path we are heading down and to imaginatively consider ways to retain our educational heritage.

ON FRIDAY, MARCH 13, 2020 I taught my classes and wished my students a nice spring break. There was apprehension in the air, though, as the lockdown status of life had just begun. That day I also explained my plans for the online iteration of our courses scheduled for March 23rd through April 8th. The university administration tentatively suggested we would be able to return Easter Monday and begin normal classes on April 13th. That plan never materialized. Instead, spring break was extended an extra week in order that faculty could retool all their courses to online versions, and on March 30th we began the permanent online spring semester of 2020. The following is a recrafted and updated version of an internal essay I submitted April 18, 2020, after faculty at Salve Regina University¹ in Newport, RI, were asked to reflect on the pros and cons of our online educational experience midstream. I offer these reflections as a contribution to the growing and highly interesting current discussion on these

* Originally published June 11, 2020 at *The Imaginative Conservative*, <https://theimaginativeconservative.org/2020/06/coronavirus-fall-semester-peter-colosi.html>. In slightly revised form, the essay is republished here with grateful acknowledgment of permission from *The Imaginative Conservative*.

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¹ The website for Salve Regina University is: <https://salve.edu/>.

matters.

A Pro and a Con

The major pro of the shift to online classes during the coronavirus pandemic was our being together, even though we were isolated at our homes away from campus. Students found this form of learning odd and difficult; nonetheless, they were happy to see each other and their professors again. I am referring to those classes that met in the live synchronous video format, rather than individually watching prerecorded lectures (the so-called asynchronous format). As grateful as we should be for the technology that made all of this possible, I don't think we can take it as an unalloyed blessing. The positive feeling of being together during the live synchronous classes happened because of the two-thirds of the semester we had already spent together in each other's physical presence getting to know each other so well; in other words, this was a surprising instance of the truth of the dictum: *absence makes the heart grow fonder*, and we are lucky to have had modern technology to provide this bit of connectedness during such a trying time. But it was a connectedness that had been formed in the classroom, not online.

Having said that, the proposal being entertained by some in higher ed to begin the fall semester online has one very glaring con: Starting classes online cold from day one will be nothing like what we just experienced. We will not have had time in each other's physical presence to develop relationships vital enough to be sustained in the less fertile ground of online learning. There will have been no preceding *presence*, which is necessary to engender the *fondness of heart* at the absence of close friends and colleagues. For that reason, every effort must be made to avoid this eventuality. Not only will that classroom presence never have come into existence, but the entire community dimension of campus life will be dissolved: from the beauty of nature surrounding us, to the daily random interactions, to the smiles, chats, and laughs – all gone. Many higher ed administrators have begun to see how dismal the prospect of an online fall is – as well as what it would portend for enrollment. I will comment on a recently proposed “solution” to this dilemma in the concluding section below.

Emotions and Teaching in the Classroom

In defense of my negative assessment of starting a semester online, I would like to reflect first on the nature of education in general and how online classes cannot recreate it, even if online teaching accomplishes the transfer of some information. In *The Idea of a University*,¹ St. John Henry Newman holds the view

¹ John Henry Newman, *The Idea of a University* (New York: Chelsea House, 1983). In the grip of our current debates, this is just the book for us to read and reread.

that the person of the professor and the empathetic relations between professor and student are more important for learning than even the particular subject matter of the course.¹ Let me explain what seems to me to be one core feature of Newman's idea, namely, the role of the emotions in education. I mean, of course, genuine emotions, and not emotional manipulation, which has no place in education. What are these genuine emotions that occur in the classroom and are so necessary for learning? They include the student "catching" the love of the professor for his or her material; they inform and arise in gestures and expressions of the professor given along with the presentation of the material and bringing the various aspects of the material to life. The ways these emotions come through in presenting material are as varied as the range of personality types among professors; the common element is the depth of knowledge of and love for the material.

Genuine emotions also include the feelings students have that cause them to raise their hands "in the moment" while the iron is hot; and they include the emotions within the professor in listening to and answering the question, as well as the emotions that arise in students listening, with surprise, to their peers who think in ways that have never occurred to them before. The philosopher Dietrich von Hildebrand makes the point that in education, the experience in the student of "being affected" is all important.² We've all experienced those moments of being affectively arrested upon hearing a particularly engaging lecture that deeply and clearly touches on an aspect of life existentially very important to us.

This experience can occur in the learning of any topic, in fact, and can make a deep impression. My first experience of this happened in my high school math classes with Mr. Clark. I was deeply struck not only by the luminous clarity of mathematics but also by the clear, consistent, and calmly expressive method with which Mr. Clark brought those truths to my mind. The naturalness with which mathematics flowed from his own rich, living knowledge of the subject was something I had never seen to that degree before in a teacher. How, I wondered back then, does he know all this without looking at the book? Newman would say that Mr. Clark not only taught me math, he engendered in me a habit of mind. The impression was so deep, that I majored in mathematics in college, motivated not by the desire to get a job but by the desire for more truth, which I had encountered

¹ No better guide to Newman's teaching on personal influence can be found than John F. Crosby's *The Personalism of John Henry Newman* (Washington, DC: The Catholic University of America Press, 2014). See Christopher O. Blum, "Catholic Distance Education: What Would Newman Say?" *Crux* (July 8, 2018), for an excellent analysis full of rich texts by Newman, available at <https://cruxnow.com/sponsored/2018/07/catholic-distance-education-what-would-newman-say/>.

² Dietrich von Hildebrand, *Ethics* (Chicago: Franciscan Herald Press, 1953), 210.

in math via my teacher.

In addition to the emotions, there is also the explaining-understanding dynamic of in-class teaching and learning. Consider when a particularly challenging text is covered, one that is difficult for a student to grasp on first reading. It's not uncommon for students to have the following exchange: A: "Did you do the reading for today?" B: "Yes, I didn't understand a thing." A: "Me either. He'll explain it in class." Then the students go to class looking forward to being able to understand what they tried to read. The interaction between explaining (teaching) by the professor, and then the effort by the students to grasp the explanation, raise questions, and discuss in the room, and, if we're lucky, even talk about it while walking out of class together: All this is essential to the communal college learning experience.

Although learning does occur via online courses, what I have described above cannot be recreated there.

The Communal Experience of Place and the Transformative Power of Beauty

James Bryant Conant observed that "[h]e who enters a university walks on hallowed ground," and if I may, I'd like to take as an example my campus at Salve Regina University to elucidate what I mean by the communal experience of place and the transformative power of beauty. We are surrounded by magnificent architecture and craftsmanship, old growth specimen trees, and the rugged beauty of the New England coast, all of which elevate the soul to higher things and serve a fundamentally important educational value. In our overly pragmatic world, such values need to be recognized and cherished to train students to be inspired by higher goods. The communal experience of place surrounded by such beauty *forms the heart*. A communal educational experience in a setting like this is not based merely on "ideas" and "syllogisms." Living encounters with beauty create, by osmosis if you will, a contemplative inner attitude that deepens the very ability to learn and to receive knowledge; such experience involves a being-affected all its own and engenders a general softening and opening of the soul that accompanies the students into the classroom and enables them in that setting to then more fully receive transcendent truth in academic pursuits. Natural beauty lifts and lightens the soul, teaching students that a poetic approach to God's abundant and free gift of creation needs to balance the pragmatic forms of knowledge. It is hard to imagine a better (or easier) way of teaching these things than by means of the hallowed ground and beauty of a college campus. All of that is lost when the educational experience is reduced from a communal experience of place down to isolated individuals staring at screens yearning to be together on campus.

The Roles of Love and Embodiment in Education

Another factor of great significance for education is the mutual love between teacher and students. When John Henry Newman was made a cardinal in 1879, the motto he chose was *Cor ad cor loquitur*, heart speaks to heart. The love between teacher and students is a genuine and beautiful love analogous to the love between parent and child (though not the same and not as important as that love). Learning is easier and better when the students know the teacher loves each one of them; it is also easier and better when the teacher knows the students love him or her, as well. This love can come through only so far in an online course, and this is because humans are *embodied beings*. An online class that begins online contains (and I quite deliberately use the cold word “contain” to contrast it with the *communal presence* discussed above) people who have never and will never be in each other’s presence; the experience feels disjointed. It would be so very sad to lose the embodied dimension of teaching and learning.

Imagine if you yourself were told that for the rest of your life you would have to relate to your family members from a different location and only through a computer screen. Why is such a thought so painful? It is because of the importance of our embodiment for human relationships. Teaching and learning is a human relationship, and to be true and full it must integrally include our embodiment. In online relating, direct eye contact is not possible. You also do not see the whole body of the other, losing thereby fully embodied gestures.¹ There is a reason why the phrase “talking heads” is a derogatory one, and it is not only because news reporters have a robotic parroting appearance; even if they related differently than they do, we would still see just a head talking. This is not normal. This is not fully human. A plastic screen is not an embodied human person. The direct physical object of our relating, that to which our eyes are directed, is a piece of plastic. This is not normal. This is not fully human. Teachers in this system get reduced to one more talking head on a screen imparting information, with whom you do not develop a personal relationship. But teaching is much more than the handing on of information. Two excellent recent pieces developing profoundly the essential relation between embodiment and education are by Randall Smith² and Carson Holloway.³

¹ Christina Cauterucci has strikingly analyzed the eye contact issue and also expressed well the depressing feature of online video anything with respect to the embodiment issue. See Christina Cauterucci, “I Will Not Be Attending Your Exhausting Zoom Gathering,” *Slate* (May 12, 2020), available at <https://slate.com/human-interest/2020/05/zoom-call-burnout-quarantine.html>.

² Randall B. Smith, “Distance education: It’s a long way from a real education,” *The Catholic World Report* (May 12, 2020), available at <https://www.catholicworldreport.com/2020/05/12/distance-education-its-a-long-way-from-real-education/>.

³ Carson Holloway, “Social, Political Animals: Embodied Learning and the Limits of

In a friendly but critical reply to Smith in defense of online education, Michael Patrick Barber¹ distinguishes between undergraduate and graduate education, making the point that graduate students have more educational training and can retain focus-motivation in ways that undergraduates are still learning. This is a good distinction, and if I read him correctly, I think he would agree that on-campus education is essential to undergraduate learning. Furthermore, having myself taught working adults in the fully online setting, I grant that some level of learning and personal influence can occur. Nonetheless, the title of Barber's response to Smith, "Education is personal, not just embodied," contains hints of what I call in my classes "separation dualism," a problematic view of human persons according to which an overemphasis is placed on the soul, often to the neglect of the role and importance of the body. This exclusive emphasis on the soul ignores the embodied dimension of human existence and with it the necessity of embodied experience for a complete education at every level, not just the undergraduate. We human persons are embodied and communal by nature, and experiences between human beings are not fully personal unless they are embodied in a physical communal setting.

Looking to the Coming Fall Semester

Glenn Moots offers an excellent analysis of the situation.² His students tell him "how much they miss what they had on campus," and he notes that "[s]elf-improvement, maturity, mentoring, and professional development require more than wifi and a laptop." Many university administrators, aware of all this, have developed arguments for restarting on campus this fall. Christina Paxson, president of Brown University, penned a *New York Times* opinion piece titled "College Campuses Must Reopen in the Fall. Here's How We Do It."³ Querying the top Rhode Island higher ed administrators, the *Providence Journal* published, "R.I. college leaders: Pandemic has affirmed value of campus life," in which my own university president, Kelli Armstrong, said of the shift to remote online

Online Education," *Public Discourse* (May 17, 2020), available at <https://www.thepublicdiscourse.com/2020/05/63449/>.

¹ Michael Patrick Barber, "Education is personal, not just embodied: A friendly response to Randall Smith," *The Catholic World Report* (May 14, 2020), available at <https://www.catholicworldreport.com/2020/05/14/education-is-personal-not-just-embodied-a-friendly-reply-to-randall-smith/>.

² Glenn Moots, "The End of Campus Education? Virtually Impossible," *Public Discourse* (May 10, 2020), available at <https://www.thepublicdiscourse.com/2020/05/63135/>.

³ Christina Paxson, "College Campuses Must Reopen in the Fall. Here's How We Do It," *The New York Times* (April 26, 2020), available at <https://www.nytimes.com/2020/04/26/opinion/coronavirus-colleges-universities.html>.

learning: “In a way that has been heartening, this experience has been kind of a blessing. It’s been an affirmation of why it’s important to live in community.”¹ In the same vein, Moots continues: “For the moment, at least, four-year colleges and universities have decided that a semester of masks, social distancing, and a thousand other nuisances is preferable to a predictable collapse of enrollment by twenty percent or more.” But, I think that could be a miscalculation: The thought of having to come back to college masked, straining to hear the muffled voices of masked professors and fellow students, listening to half of the lectures online from a dorm room (alternating with the other half of the class so as to practice social distancing in the class room), navigating strategies for distancing at meals – and who knows what else will be in the new rules’ description sent out to parents and students – seems unbearable. For some, these rules are sure to be just as off-putting as an all online semester from home.

I understand that a COVID-19-based hybrid model is a response to the desire to be back on campus, a desire well expressed in a petition of Harvard undergraduates,² and that that effort is an attempt to keep the drop in enrollment to lower than the predicted high of 20 percent. Nonetheless, that description of campus life does not inspire joy, and that is because it doesn’t fulfill the desire for living in a natural and free community. And though the good that has come from this crisis can and should be pondered along with the bad,³ these lingering, potentially long-lasting blocks to normal human communal connection are by no means trivial. They are disjuncting and harmful to human psychological and spiritual well-being, indeed even to physical health.⁴ Have you noticed how in a masked encounter both people tend to look away, not to mention the disappearance of smiles? Rather than excitement at the “solution” of implementing such measures on our campuses, we should be vigilant in looking to minimize and eventually eliminate them altogether. I do not here intend to discuss the curve or a second wave. Instead, I want to draw our attention to the

¹ Linda Borg, “R.I. college leaders: Pandemic has affirmed value of campus life,” *Providence Journal* (May 8, 2020), available at <https://www.providencejournal.com/news/20200508/ri-college-leaders-pandemic-has-affirmed-value-of-campus-life>.

² Juliet E. Isselbacher and Amanda Y. Su, “Hundreds of Harvard Undergraduates Petition Against Virtual Fall Semester,” *The Harvard Crimson* (May 13, 2020), available at <https://www.thecrimson.com/article/2020/5/13/harvard-undergraduates-against-virtual-fall/>.

³ The Hildebrand Project, “Personalism in the Pandemic,” Youtube Video, 55:02 (April 25, 2020), available at <https://www.youtube.com/watch?v=tS9Q10c8bcI&t=210s>.

⁴ Grace-Marie Turner, “600 Physicians Say Lockdowns Are A ‘Mass Casualty Incident’,” *Forbes* (May 22, 2020), available at <https://www.forbes.com/sites/gracemarie-turner/2020/05/22/600-physicians-say-lockdowns-are-a-mass-casualty-incident/#6115ed0550fa>.

serious dangers to human community and genuine happiness of what we are embarking upon, and to ask everyone to feel and to ponder the wrongness of going down this path. To put the point frankly, what everyone really needs to hear is a joyful announcement that everything is returning to normal; and to come back full force as usual and get back to real life.

With a grateful hat tip to John Rao, I'd like to end my article with a C. S. Lewis quotation that captures perfectly the concern that is lost on many and deliberately ignored by the media. But before closing with Lewis, I want to recommend Rao's two companion pieces¹ in which, while not in "any way wish[ing] to minimize the real suffering and loss that this malady has entailed for many people," he argues forcefully and convincingly that our leaders and news outlets are "pressing us to destroy everything that we hold dear for the sake of creating an antiseptic, barren, soulless world unfit for human beings to live in – and die in – with dignity." We all need to take more explicit notice of this. It remains to be seen what will be required of universities this coming fall, but higher ed leaders should not allow an undue curtailment of normal lively campus life. The current response of the Roman Catholic bishops and Lutheran leaders to the overbearing government intrusion of the State of Minnesota into matters concerning the practice of religion seems both reasonable and courageous, and can serve as a model for university leaders for defending normal human community, while at the same time respecting reasonable safety guidelines.²

Having said all this, let's give C. S. Lewis the last word. It comes from his essay "On Living in an Atomic Age":

In one way we think a great deal too much of the atomic bomb. "How are we to live in an atomic age?" I am tempted to reply: "Why, as you would have lived in the sixteenth century when the plague visited London almost every year, or as you would have lived in a Viking age when raiders from Scandinavia might land and cut your throat any night; or indeed, as you are already living in an age of cancer, an age of syphilis, an age of paralysis, an age of air raids, an age of railway accidents, an age of motor accidents." In other words, do not let us begin by exaggerating the novelty of our situation. Believe me, dear sir or madam, you and all whom you love were already sentenced to death before the atomic bomb was

¹ John Rao, "Pandemic Reaction Is a 'Horrible Illustration' of the 'Diabolical Disorientation' Accompanying Ravages of Modernity" (May 4, 2020), and "Committing Suicide in the War of All Against All" (May 12, 2020). These pieces were published on the website of Edward Pentin, available at <https://edwardpentin.co.uk/john-rao-virus-lockdown-is-a-horrible-illustration-of-the-diabolical-disorientation-accompanying-ravages-of-modernity/> and <https://edwardpentin.co.uk/john-rao-committing-suicide-in-the-war-of-all-against-all/>.

² Doug Mainwaring, "Minnesota bishops defy gov's lockdown order, announce they'll restart public Masses," *Lifesite* (May 21, 2020), available at <https://www.lifesitenews.com/news/minnesota-bishops-defy-govs-lockdown-order-announce-theyll-restart-public-masses>.

invented: and quite a high percentage of us were going to die in unpleasant ways. We had, indeed, one very great advantage over our ancestors – anesthetics; but we have that still. It is perfectly ridiculous to go about whimpering and drawing long faces because the scientists have added one more chance of painful and premature death to a world which already bristled with such chances and in which death itself was not a chance at all, but a certainty. This is the first point to be made: and the first action to be taken is to pull ourselves together. If we are all going to be destroyed by an atomic bomb, let that bomb when it comes find us doing sensible and human things – praying, working, teaching, reading, listening to music, bathing the children, playing tennis, chatting to our friends over a pint and a game of darts – not huddled together like frightened sheep and thinking about bombs. They may break our bodies (a microbe can do that) but they need not dominate our minds.

Wisdom out of Africa: Robert Cardinal Sarah's Witness to a Church in Crisis

*John Gavin, S.J.**

ABSTRACT: This essay examines the significance of the controversial Robert Cardinal Sarah during this time of crisis in the Church. After an overview of his life and the primary influences on this thought, it highlights two themes emerging from his writings and pastoral work. It concludes with a consideration of his witness to a theology of continuity and his response to the decay of Western Christian culture.

THE MAY 2ND ISSUE of *The Tablet* included an essay by Christopher Lamb entitled “Cardinal Sarah’s Parallel Magisterium.”¹ Lamb portrays the Guinean cardinal as one of Pope Francis’s “most effective opponents,” a master manipulator who seeks to impose a stifling conservative agenda on the Church. Sadly, the essay is replete with wounding asides² and innuendo,³ discrediting its author far more than its target. At best, one can say that Lamb has at least whetted the reader’s curiosity: Who is Robert Cardinal Sarah and does he have a vision for the Church?

In this essay I offer a brief overview of the principal influences on the life and thought of Cardinal Sarah, along with some major points from his analysis of the ecclesial and global challenges now facing us. This voice from the emerging African Church reminds the dying West of its Christian roots and directs the Church toward a renewal in Christ.

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¹ Christopher Lamb, “Cardinal Sarah’s Parallel Magisterium,” *The Tablet* vol. 274, no. 9350 (May 2, 2020), 4-5. The essay is part of an upcoming book by Lamb.

² For example: “In the past, Cardinal Sarah might have been dispatched on a far-off apostolic mission or sidelined to a non-job in the Curia. Francis, however, has been tolerant.” Lamb, “Parallel Magisterium,” 5.

³ For example: Because Sarah was educated by the Holy Ghost Fathers, “the same order that produced Archbishop Marcel Lefebvre,” Lamb suggests that Sarah may have connections to Lefebvre’s splinter group, the Society of St. Pius X. “Does the cardinal, who has a leaning toward liturgical traditionalism, retain some sympathy for Archbishop Lefebvre and his Society of Saint Pius X?” Lamb, “Parallel Magisterium,” 4.

Life

Robert Cardinal Sarah was born on June 15, 1945 in Ourus, French Guinea. His parents, who converted to Catholicism when he was an infant, had him baptized at the age of two. His family actively participated in the life of the local parish and Catholic community.

He credits the missionary Holy Ghost Fathers for his formation in the faith, his reception of the treasures of French culture, and the discernment of his priestly vocation. “I owe my entrance into Christ’s family entirely to the exceptional dedication of the Holy Ghost Fathers. I will always admire these men, who had left France, their families, and their ties to bring the love of God to the ends of the earth.”¹ He entered the minor seminary in the Ivory Coast at age twelve, and he did his studies in France, Senegal, and Rome. After his ordination on July 20, 1969, he completed a license in theology at the Gregorian University and a license in scripture at the Studium Biblicum Franciscanum in Jerusalem. He began work on a doctoral dissertation but was recalled to Guinea to assume duties as a parish priest in 1972.

The young priest returned to find a minority Catholic population under the oppressive regime of Sékou Touré. “Often I chose to travel to the most remote villages because I knew those inhabitants had not had a visit from a priest since the expulsion of the missionaries in 1967.”² He became aware of constant government surveillance and the need for caution in his attempt to catechize his flock. “I had to be careful not to question the doctrine of the State Party openly. At that time, Archbishop Tchidimbo had been in prison for four years, and the dictatorship was becoming increasingly harsh.”³ His courage and articulate preaching did indeed attract government attention, making him a target on several sanctioned hitlists.

In 1979 he became Bishop of Conakry – the youngest bishop in the world at that time. Though initially approved by the government, his zeal and frankness would continue to draw the ire of the regime. In 2001, however, he left his homeland to become the secretary for the Congregation of the Evangelization of Peoples, a position that allowed him to travel to many locations where Christianity struggled for freedom and existence. In 2010, Pope Benedict XVI made him a cardinal and appointed him the president of Pontifical Council *Cor unum* for Christian and human development, another position that gave him contact with the world’s suffering and needy. Since 2014, he has been Prefect for the Congregation

¹ Robert Cardinal Sarah and Nicholas Diat, *God or Nothing*, trans. Michael Miller (San Francisco: Ignatius Press, 2015), 24.

² *Ibid.*, 54.

³ *Ibid.*

of Divine Worship and the Discipline of the Sacraments.¹

Primary Influences

Africa

Sarah consistently praises the Guinean people and culture, as well as the African church in general, in his writings and talks. In particular, he highlights his people's strong familial ties and sense of mystery. He extols Africa's religious soul in contrast to the increasingly atheistic West:

In Africa and in Asia, nothing is profane. Everything is sacred. Everything is connected to God and depends on him. Everything reaches its fullness in God. The smallest reality is connected to God. It is inseparable from its origin. A profane culture is an unexplored, contemptible country, "a waterless spring" (cf. 2 Pet 2:17). African man cannot understand a world without God. The river would no longer have sources, and the houses would be without foundation.... A world without God and without moral and religious values is a deadly illusion.²

He credits his love for the liturgy and prayer to his inheritance of Africa's "joyful fear of everything sacred."³ He happily carries his homeland's zeal in his heart: "I remember that on Sundays all the villagers were very fond of spending a long time in personal prayer. We were in the presence of the Presence."⁴

Yet, he does not hesitate to critique certain elements of his native culture. The harsh initiation rites, especially for girls, only make the people "slaves to our milieu, walled up in fears of the past," and they violate the dignity of women.⁵ During his years as a priest and bishop, the corrupt government, military juntas, and horrifying poverty did not escape his vocal condemnations. In an interview from 2013, he praised the phenomenal growth of the Church in Africa, but he also acknowledged its lack of rootedness and depth: the continent desperately needed more catechetical formation and engagement with personal prayer.⁶ Such lack of depth has also made the African Church subject to Western ideological propaganda, in which Western elites attempt to impose the principles of the sexual revolution on African cultures.

Yet, despite the daunting challenges, Sarah firmly believes that the African

¹ Sarah speaks about his life in an interview from March 2015, available at https://www.youtube.com/watch?v=eNVYY_6maoc.

² Robert Cardinal Sarah and Nicholas Diat, *The Day is Now Far Spent*, trans. Michael Miller (San Francisco: Ignatius Press, 2019), 224.

³ *God or Nothing*, 51.

⁴ *Ibid.*

⁵ *Ibid.*, 52.

⁶ "Africa: The Future of Humanity," available at https://www.youtube.com/watch?v=7GZFqJT_sg8.

Church is the hope for the reevangelization of the world. Africans have not yet been fully corrupted by the materialism of the West and they still maintain strong familial and communal ties.¹ If Africans succeed in resisting the new “postmodern colonization” from Western elites, they will become the “fire that illumines the night” for a world plunging into darkness.²

The Scriptures

Sarah’s formation as a scripture scholar greatly shapes his personal spirituality and articulation of the Gospel. Though he never completed his doctoral dissertation on the Prophet Isaiah, he nonetheless acquired the essential linguistic and analytical tools to study and preach on the bible in profound and striking ways.

Though well-formed in historical critical methodology, Sarah nonetheless recognizes the shortcomings of contemporary scholarship in its tendency toward ideological manipulation of the scriptures. “Today, certainly it is important for us to show the same respect and fidelity to the Word of God, so as not to manipulate it to fit historical, political, or ideological circumstances, for the purpose of pleasing men and acquiring a reputation as a scholar or avant-garde theologian.”³ The scriptures are God’s Word that must become the formative source of reflection and prayer. “One must humbly acknowledge that a whole lifetime is necessary to study the Word of God and to acquire the wisdom that leads to love.”⁴

The Monastic Tradition: Silence and Asceticism

Early on in his formation as a priest, Sarah discerned a calling to enter a Benedictine monastery, but he came to the conclusion that he could not abandon his country in its desperate need for priests.⁵ Yet, the Church’s monastic tradition continues to inspire Sarah in both his personal spirituality and his pastoral ministry. His book *The Power of Silence* was inspired by visits to the Abbey of Lagrasse and to the Grand Chartreuse in France in 2014-2015. In the book Sarah offers a series of thoughts in the manner of ancient monastic centuries⁶ that

¹ See *ibid.* In fact, according to Sarah, many African migrants in Europe come to have contempt for Western society because of its decadence and elimination of the sacred. See *The Day is Now Far Spent*, 225.

² *The Day is Now Far Spent*, 222.

³ *God or Nothing*, 47.

⁴ *Ibid.*, 48.

⁵ *Ibid.*, 53.

⁶ “Centuries” were collections of short sayings and reflections for the monks to ponder in prayer. See, for instance, the work of the fourth-century solitary Evagrius Ponticus, *The Praktikos and Chapters on Prayer*, trans. John Bamberger (Collegeville, MN: Cistercian

encourage a return to silence, adoration, devout worship, and prayer in the common life of the Church. “The dictatorship of noise” has deafened the Church to the admonitions and encouragement of the Spirit and has left her in a state of frenzied confusion. “Contemplative silence is silence with God. This silence is clinging to God, appearing before God, and placing oneself in his presence, offering oneself to him, mortifying oneself in him, adoring, loving and hearing him, listening to him and resting in him. This is the silence of eternity, the union of the soul with God.”¹ The silent adoration practiced in monastic life must penetrate more fully the worship and daily prayer of the Church as she confronts the eclipse of God in the world. “Sacred silence, laden with the adored presence, opens the way to mystical silence, full of loving intimacy. Under the yoke of secular reason, which only makes us feel guilty, we have forgotten that worship and the sacred are the only entrances to the spiritual life.”²

Sarah sees monasticism not only as a source for renewal in the Church’s spiritual life but also as a model for the communal life of Christians and even for the reform of the Roman curia. Monastic life realizes the communion of the apostles in the modern world and can be adapted to other states of life. “It is often said that we are seeking greater collegiality in the Church. But what is the model of this collegiality if not the apostles, who persevered together in prayer, having one ear and one soul? Often people create institutions, councils, or commissions to promote this collegiality. Why not model our efforts on those of the apostles?”³

Two Popes: John Paul II and Benedict XVI

Both John Paul II and Benedict XVI dramatically shaped Sarah’s life by ordaining him bishop and elevating him to key positions in Rome. Yet, the two pontiffs also greatly influenced him intellectually and spiritually.

On the personal witness of John Paul II, Sarah wrote, “I admire his extreme courage in facing all the storms he weathered throughout his life. His last struggle with the illness that was consuming him was heroic.” From John Paul II he learned that “there is no pastoral success without sharing in Christ’s suffering.”⁴ Sarah looks to the Polish pontiff as a model of courageous witness in times of confusion and fear.

Benedict XVI stands out as the major intellectual influence on his ministry. He praises the pope as a “sensitive, modest, and reserved man” whose papacy was

Publications, 1972).

¹ Robert Cardinal Sarah and Nicholas Diat, *The Power of Silence: Against the Dictatorship of Noise*, trans. Michael Miller (San Francisco: Ignatius Press, 2017), 55.

² *Ibid.*, 122.

³ *The Day is Now Far Spent*, 120.

⁴ *God or Nothing*, 94.

“a magnificent book open toward heaven.” He also lauds Benedict’s fundamental insights into “the battle against the spirit of relativism, the denunciation of the possible dictatorial currents of secularism, the fight against anthropological reversals, and a deeper appreciation of the liturgy.”¹ He even goes so far as to pronounce that “[Benedict’s] vision of God and man is so profound that I am certain – and I hope – that one day, by the grace of God, he will be canonized, venerated as a great saint, and proclaimed a Doctor of the Church.”²

The close ties between Cardinal Sarah and the pope emeritus are particularly evident in Sarah’s writings. Perhaps the most striking example is the controversial publication of *From the Depths of Our Hearts: Priesthood, Celibacy, and the Crisis of the Catholic Church*. Though the full details of the controversy remain obscure, it is clear that the book was a collaborative effort in that Sarah draws greatly upon Pope Benedict’s thought in the book’s presentation of the priesthood, especially in the defense of the discipline of celibacy.³ Though Sarah cites many other authors in his works – from the Church Fathers to such twentieth-century French Catholics as Péguy, Claudel, and Bernanos – Joseph Ratzinger stands out as the greatest influence.

Two Themes

Responding to the Collapse of the West

On February 7, 2018, Cardinal Sarah spoke before a packed audience in Brussels on the theme of his book *God or Nothing*.⁴ He spoke forcefully about a “crisis of God” in Europe that is both ethical and religious. The abandonment of Christian roots has destroyed the social fabric through its rejection of the sacred and the family. The seduction of technology and wealth has left especially the young in a state of confusion about their place in the world. In *The Day is Now Far Spent*, he develops further this dire prognosis:

¹ Ibid., 98.

² Ibid., 99.

³ See Benedict XVI and Robert Cardinal Sarah, *From the Depths of Our Hearts: Priesthood, Celibacy, and the Crisis of the Catholic Church* (San Francisco: Ignatius, 2020). For an overview of the controversy see Edward Pentin, “Pope Benedict Co-Authors New Book with Cardinal Sarah on the Priesthood,” *The National Catholic Register* (January 12, 2020), available at <https://www.ncregister.com/daily-news/pope-emeritus-benedict-and-cardinal-sarah-collaborate>. For Pope Benedict XVI on the priesthood see *Teaching and Learning the Love of God: Being a Priest Today* (San Francisco: Ignatius, 2017).

⁴ See “Conférence du Cardinal Robert Sarah: ‘Dieu our rien’,” available at <https://www.youtube.com/watch?v=lyWZUMS8WFE>.

I think [Europe] is on its last legs. A process of self-destruction is always reversible. But time is short. For several years, the decline has been accelerating. All civilizations that ignore the eminent dignity of the human person have vanished. Today, as at the time of the Roman Empire, Europe manipulates, commercializes, and toys with human life, thus creating the conditions for its own extinction.¹

While Sarah does not put much hope in a full revival of the West, he does see the Church as the only source for sustaining the West's culture and spiritual heritage. In a message to families, he made it clear what Christians must do in the current crisis: "Your mission is not to save a dying world. No civilization has the promises of eternal life. Your mission is to live out with fidelity and without compromise the faith you received from Christ. In that way, even without realizing it, you will save the heritage of many centuries of faith.... Watch over this sacred fire!"² He is, in short, a pessimist in regard to the restoration of Western civilization, but an optimist in regard to the Church's role in preserving the goodness and beauty inherent to Europe and its sphere of influence.³

Furthermore, the modern Church must become the defender of humanity under the onslaught of Western nihilism. The decline of the increasingly atheistic West has led the world into the abolition of man, the loss of hope in humanity:

More profoundly, the Church makes herself the guardian of human nature. The immense misunderstanding that prevails on this subject with the modern world is frightening. When the Church defends the lives of children by fighting against abortion, when she defends marriage by showing the profound harmfulness of divorce, when she preserves the conjugal relationship by warning against the dead end of homosexual relations, when she tries to protect the dignity of the dying against the temptation of euthanasia, when she warns against the dangers of gender ideology and transhumanism, in reality she makes herself the servant of humanity and the protectress of civilization.⁴

Thus, those who seek to change essential Church teachings or to abandon tradition are, in fact, falling into the dissolution of the modern world. For instance, in response to the renewed cries for an abandonment of priestly celibacy, Sarah not

¹ *The Day is Now Far Spent*, 221.

² *Ibid.*, 221-22.

³ In an interview from 2019, Sarah again laments the demise of the Christian West, likening it to a river cut off from its source: such a river will only dry up. However, he also declares his belief that the West still has a "special mission" to bring the faith to the world. See <https://www.youtube.com/watch?v=8wTEXodG8C0>.

⁴ *The Day is Now Far Spent*, 159. For an example of Sarah's public defense of Church teaching, see Michael O'Laughlin, "Cardinal Sarah Offers Critique of L.G.B.Q.T. Book, Father James Martin Responds," *America Magazine* (August 31, 2017), available at <https://www.americamagazine.org/faith/2017/08/31/cardinal-sarah-offers-critique-lgbt-book-father-james-martin-responds>.

only turns to various theological and historical arguments, but he also highlights the importance of the discipline for the Church's identity and witness before the onslaught of the decaying West: "[Celibacy] is the touchstone of any sound ecclesiology. Celibacy is a rampart that enables the Church to avoid the trap that would amount to understanding her as a human institution whose laws would be effectiveness and functionality."¹ A fidelity to the Church's tradition and mission will be the best response to the crisis in modern civilization.

It may be surprising for some to discover such a passionate response to the crisis of the West in the words of an African cardinal. Yet, it is precisely in his Christian-African roots that Sarah is able to take a stance before the Western world and see it with both critical and appreciative eyes. He praises the achievements of the Christian West, deeply admires the beauty of its art – for instance, his books and talks contain numerous quotations from French literature – and lauds its genuine contributions to law and politics. Yet, as one who grew up free of the distortions found in Western materialism and the seductions of the sexual revolution, he is able to take a prophetic stance and diagnose the malaise of the age. This often infuriates Sarah's Catholic critics, who clearly want an African who affirms their pretensions toward a radical multiculturalism and a general repudiation of the West. Sarah does not *confuse* Western culture with Christianity, but he does see the importance of taking the good that it offers, while rejecting its current perversions. His is a modern "spoiling of the Egyptians," the preserving of what is the best of West for the preaching of the Gospel.

Responding to Spiritual Corruption in the Church

Sarah pulls no punches in calling out the modern Judases who seek to pull down the Church from within. These traitors have adopted the way of the world – "efficient activism" – that manifests itself in a variety of secularized agendas. "All sorts of things are challenged, and we tolerate it. Catholic doctrine is called into question. In the name of so-called intellectual positions, theologians amuse themselves by deconstructing dogmas and emptying morality of its profound meaning. Relativism is the mask of Judas disguised as an intellectual."²

In his most daring critique, he declares that "the crisis of the Church has entered into a new phase: the crisis of the magisterium."³ This assessment remains general in its expression – he does not name names.⁴ However, he does not shy

¹ *From the Depths of Our Hearts*, 102.

² *The Day is Now Far Spent*, 13.

³ *Ibid.*, 90.

⁴ Sarah has responded strongly to those who claim that he stands in opposition to Pope Francis. See Cindy Wooden, "Cardinal Sarah: To Oppose the Pope is to Oppose the Church," *Crux* (October 9, 2019), available at <https://cruxnow.com/vatican/2019/10/>

from spelling out the consequences of the crisis. “Today, however, a veritable cacophony reigns in the teachings of pastors, bishops, and priests. They seem to contradict each other. Each one imposes his personal opinion as something certain. They result in a situation of confusion, ambiguity, and apostasy.”¹ The Church today therefore suffers dearly under the corruption of her shepherds.

The response to this collapse is the universal call to holiness and fidelity to tradition. During his years at the helm of *Cor unum*, Sarah worked to express the Church’s material and spiritual closeness to those who were suffering in the world. Yet, he quickly discovered a greater need in suffering humanity: “As I traveled to the most afflicted countries in our time, I very quickly understood that the greatest misery is not necessarily material poverty. The most profound misery is the lack of God.”² The real mission of the Church is therefore to fill the world’s hunger for God, to show the Way of Christ toward holiness. The Church’s renewed fidelity toward the Apostolic tradition must become her source of strength in a starving world.

To fill this hunger for God and to renew the call for holiness, the Church must carve out spheres of silence in the midst of a noise-filled world. This will demand a deliberate, radical conversion within the heart of every believer, especially in the hearts of the Church’s shepherds. “If he returns to a discipline of silence, a priest can subject himself to the Holy Spirit. If God’s spokesmen do not let the Holy Spirit speak in them, they unfailingly change divine grace into mere, despicable human cleverness.”³ If priests and the faithful find both personal and communal space for silence, especially within the sacred liturgy, they will hear the voice of God and, like John the Baptist, become the voices of the Word to those around them.

Conclusion: The Significance of Cardinal Sarah

Cardinal Sarah stands out in our troubled times for two reasons. First, in a time when the West desires to see only the worst version of itself – a suicidal self-assessment of the West as an inherently racist, misogynist, homophobic, transphobic, colonialist oppressor – Sarah shines a light on the best of the Christian West and what it can offer to the Church and culture. He does not hesitate to decry the West’s current decadence and decline; yet he also calls the West to return to its Christian roots and rediscover the best of itself for the sake of the world.

Second, he has been a consistent voice for continuity with the teachings and

cardinal-sarah-to-oppose-the-pope-is-to-be-outside-the-church/.

¹ *The Day is Now Far Spent*, 91.

² *God or Nothing*, 77.

³ *The Power of Silence*, 79.

witness of the previous two popes. Sarah is, for the most part, not an original thinker. Yet, his writings and talks demonstrate a deep synthesis of the ideas of John Paul II and Benedict XVI. While many seek to use the Francis papacy as an opportunity to erase nearly four decades of the papacy in favor of a hermeneutics of rupture, Sarah boldly renews the clarion call for a hermeneutic of continuity within the tradition of the Church as shown by John Paul II and Benedict XVI. Thus we hear the bitter words from Christopher Lamb and others: Sarah refuses to take his cues from those who see Vatican II as a new beginning for the Church that scuttles what came before.¹ The voices of two prophetic popes, grating to many ears, continue to resound in the Guinean cardinal.

“I have no program. When you have a program, it is because you want to achieve a human project. The Church is not an institution that we have to achieve or fashion with our ideas. It is simply necessary to receive from God what he wants to give us.”² Robert Cardinal Sarah may not offer the Church a “program,” but his courageous witness does call the Church back to continuity with her Apostolic roots. His message is clear: God or nothing.

¹ For an overview of Sarah’s critics, see Matthew Schmitz, “Why Cardinal Sarah Terrifies His Critics,” *The Catholic Herald* (June 22, 2017), available at <https://www.wrn.org/articles/47024/>.

² *The Day is Now Far Spent*, 299.

The Chinese Communist Party Is a Bigger Threat to Humanity than Coronavirus, and America Must Confront It

*Chen Guangcheng and William Saunders**

ABSTRACT: The Chinese Communist Party suppressed the truth about this virus and allowed it to spread around the world, creating a catastrophe. When the pandemic is finally under control, the rest of the world must come together to confront the CCP. In a globalized world, when dictators are in power, it is not only the people they directly rule who are in harm's way. It is all of humanity. If free nations do not eradicate communist authoritarianism, they will become its victims.

AS THE CORONAVIRUS HAS SPREAD across China and around the world, harming people everywhere, the threat the Chinese Communist Party (CCP) poses to all humanity has become clearer and more obvious than ever before. Together, citizens and world leaders across the globe must begin thinking about how to respond to that threat.

The CCP suppresses and manipulates information to strengthen its hold on power. Over the past weeks, the CCP has told the world that it has controlled the virus, that it has been victorious. Many people and leaders around the world seem to believe this. In fact, many people are saying that we should do what the authoritarian regime has done in China.

This is dangerous. One cannot believe what the CCP reports. In spite of the party's stranglehold on Chinese news media, there is ample evidence to demonstrate their lies. As we write this, the city of Harbin in Heilongjiang

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Province is seeing a major resurgence of the disease. Each day there are more than 6,000 new cases. Harbin is now closed and the neighborhoods within the city are also being closed off, just as previously in Wuhan. Also, as with Wuhan, authorities are barricading people in their own homes. In Wuhan, whole families have been found dead in their apartments because they could not get out. Now this is happening in Harbin too. More places are coming under lockdown including – according to local sources – places like Handan in Hebei Province, in Guangdong Province, and Wuhan again. This is despite the authorities ordering everyone back to work and telling the outside world that they have the virus under control.

The resurgence is directly related to the CCP hiding the truth and cracking down on people who tried to share information on the virus. The CCP is taking advantage of the pandemic to carry out its suppression campaign.

Censored Media, Disappearing Journalists

During the lockdown of Wuhan in February, citizen journalists like Fang Bin, Chen Qiushi, and Li Zihua recorded what was happening in Wuhan's hospitals and crematoriums, using their smartphones. They documented people collapsing in the streets, body bags piling up in vans, a hearse carrying seven bodies, and hearses and vans carrying bodies working twenty-four hours a day. Then they shared their findings online.

Their documentary evidence contradicted CCP propaganda. So the CCP sent public security to break into Fang Bing's home and take him away. Chen Qiushi was also disappeared. As of today, no one knows the whereabouts of either one. Li Zihua, recently released from quarantine, described how he was chased by public security, captured, and detained. Meanwhile, the authorities said he was under quarantine.

The writer Fang Fang wrote daily journals of the epidemic in Wuhan to let people know what was happening in her city. Netizens applauded her work and were glad that someone was describing the shocking things that were going on, despite the fact that many said her writing only covered about 1 percent of what was happening. However, the CCP organized commentators to attack her online, cursing her and sending her death threats. They claimed that, by sharing the truth of the pandemic, she was giving America and other Western countries fuel with which to attack China.

As for the data, there is nothing about the CCP's numbers that are believable. Recently, the CCP raised the official number of deaths. Previously, the number was a little more than 3,200 in the entire country. Then they said they had missed 1,290 people in Wuhan, so they have adjusted the national figure to just over 4,600. But no one believes this – not the Chinese people and no one outside China either. Based on the number of body bags ordered by the CCP, many estimate that

roughly 700,000 people may have died in China. No one knows how many have been infected.

Under Authoritarianism, There Is No Rule of Law – Only Total Control

Many people don't understand how the CCP regime operates. Under authoritarianism, there is no rule of law. China's political system is a party-state system, where the party controls everything. Rule by the Communist Party is written into the constitution. The so-called government is just a puppet that the party uses to protect single party rule. The Communist Party makes all decisions about who is appointed to government positions. At every level of authority, party committees and party secretaries have the real power. Whether it is the premier of the country or a local village mayor, any government position is beholden to the party secretary of that level.

This is why there are no independent courts and no independent legal system in China. The judiciary obeys the party. The media is controlled by the party. Corporations are controlled by the party.

The CCP seeks total control of the population. It is doing this through its huge surveillance network, using facial recognition and movement recognition. If you go, for example, to Xinjiang, where the Uighur people live, your phone will be confiscated at the border, and any apps the party deems threatening will be deleted. While places like Tibet and Xinjiang are controlled with particular severity, all people throughout China are under surveillance and could be victims of persecution by the party.

The CCP Has No Regard for Human Life

Authoritarianism is evil, and it breeds cruelty and disregard for human life. In Wuhan, there have been many reports that people who were not dead – who were still breathing and whose bodies were still warm – were put into body bags and sent to the crematoriums.

In the early days of the virus, the CCP used unconventional methods to purchase medical supplies from abroad. They used their underground organizations now in many countries around the world – including Australia, Italy, and the Americas – to buy up supplies in vast quantities. Various sources report masks and gowns totaled 2,200,000,000. This left many countries depleted of vital supplies.

Like fire and water, authoritarian dictatorships and democracies do not mix. No matter how nice the free world tries to be, dictators will not change. Americans must face reality: dictators see you as the enemy. When dictators are in power, it's not only the people they directly rule who face harm, as you now see from the coronavirus. That is why leaders of other countries can't ignore or simply

make a show of confronting dictators. If free nations do not face the difficult task of deciding how to eradicate communist authoritarianism, they will become its victims.

The Free World Must Confront the CCP

As we write this, the total number of infected people in the United States is over one million, and deaths total more than 62,000. This number is more than nine times the amount of deaths in 9/11 and Pearl Harbor combined. After 9/11, America decided to do whatever it could to eliminate terrorism. After Pearl Harbor, America immediately entered the war in the Pacific, and thus eventually destroyed fascism. The CCP has suppressed the truth about this virus and has allowed it to spread around the world, creating a catastrophe. When the epidemic is finally under control, the rest of the world must come together to confront the CCP.

A top priority should be to consider how to directly and effectively assist the Chinese people in understanding, resisting, and overthrowing the CCP dictatorial regime. The West needs to take specific measures to weaken the CCP's capability to oppress, including technological, economic, or other forms of assistance. If the CCP persecutes human rights activists, religious believers, and democracy activists, it should pay the highest price for its actions. If the CCP does something that causes hundreds of thousands of deaths worldwide, it also needs to be held responsible.

The CCP is the biggest and most serious virus of all. With over 200,000 people dead worldwide from the coronavirus, there should be no question of the regime's threat. If we cannot work together to stop the CCP, we will continue to be in danger even after the coronavirus has passed. The CCP is a threat not just to the Chinese people, but to the whole world.

Luigi Taparelli on Cult, Culture, and Authentic Progress

*Thomas C. Behr**

ABSTRACT: Luigi Taparelli, S.J. (1793-1862) played a fundamental role in the Thomistic revival and in shaping modern Catholic social teaching. He was famous in mid-nineteenth century Europe as the most distinguished (“notorious” to liberals) writer for *Civiltà Cattolica*. Known as the pope’s “think tank,” Taparelli cofounded this journal in 1850 at the request of Pius IX. Taparelli’s legacy was deliberately marginalized by Leo XIII (a student of Taparelli) as the Vatican sought to engage the “new things” of modernity precisely on terms of neo-Thomistic natural right that Taparelli had pioneered. The subject of this essay is a lecture by Taparelli from 1846, translated for Orestes Brownson’s *Quarterly Review* in 1848, that offers a unique insight into the author’s theorization of human nature and society, and the benefits, therefore, of Catholic cult and culture for human progress.

IT WAS IN THE WAKE of the French Revolution and the Napoleonic Empire that Luigi Taparelli, S.J., elaborated his natural law theories on social order, including the principles of subsidiarity and of social justice, that have become pillars of modern Catholic social teaching. Taparelli’s major work, *Theoretical Treatise of Natural Right Based on Fact* (1840-43), was translated into French, German, and Spanish within a few years of its first publication and was widely used in Catholic universities and seminaries.¹ Taparelli was among the most energetic promoters of the Thomistic revival, and his treatise was foundational for the development of Catholic social ethics.²

Taparelli’s work, however, has been but little studied on its own terms. Misinterpretations and misunderstandings abound. He championed the unity of

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¹ Most complete edition, edited and expanded by the author: *Saggio Teoretico di Dritto Naturale Appoggiato sul Fatto* (Rome: Civiltà Cattolica, 1855).

² Ernest L. Fortin, *Human Rights, Virtue and the Common Good: Untimely Meditations on Religion and Politics* (*Ernest Fortin: Collected Essays, Vol 3*), ed. Brian Benestad (Lanham, MD: Rowman & Littlefield Publ., 1996), 191-222.; and Gerald McCool, *Nineteenth-Century Scholasticism* (New York: Fordham Univ. Press, 1989), 81-87.

truth and the harmony of faith and reason in an age troubled by such divisive positions as traditionalist fideism and theological liberalism. His neoscholastic approach to the natural law included use of principles from the social sciences as well as evangelical exhortations. This pairing of resources has characterized Catholic social teaching ever since *Rerum novarum* (1891) and can provide a bridge to normative social dialogue across sectarian and religious differences. Leo XIII and many of the theologians around him were in fact students or protégés of Taparelli. Cofounder of the “pope’s think tank” *Civiltà Cattolica* in 1850 and tasked by Pope Pius IX to spearhead the Church’s response to uncritical liberalism, Taparelli wrote hundreds of articles on a whole range of social, political, economic, and cultural topics.¹

The title of his work, “Natural Right Based on Fact” has been a source of confusion, from his day up to ours.² His philosophical method of abstract reasoning from empirical evidence to theoretical conclusions draws directly from Aristotle of the *Nicomachean Ethics* via the natural law reasoning of Aquinas and the later scholastics. Applying those abstract truths to the facts of life (concrete reality) is where Aristotle places the acid test of any theory of human practice.³ If the facts do not match the theory, then the philosopher of ethics must return to the drawing board. For Aquinas, the more that contingent facts are complicated or distant from first principles in application, the more tenuous is the reasoning, the more debatable may be the appearance of truth to the observer, and the more exceptions there may be in particular application.⁴ Human laws in fact must be adapted to the moral capacity of the persons to whom the laws are to apply.⁵ Similarly, Taparelli insists that natural right starts with facts but then must be applied back to the facts, where the determination of right reflects the assessment of conflicting rights and the exercise of prudence given contingencies of concrete reality. Taparelli’s method moves from study of human nature, history and society, to abstract natural right as “thesis,” and then the prudential application in the midst of particular historical conditions and competing rights yields a “hypothesis” – a hypothetically just arrangement. “Natural right based on fact” reasoning has contributed to the prudential approach characteristic of Catholic

¹ Francesco Dante, *Storia della ‘Civiltà Cattolica’ (1850-1891). Il laboratorio del Papa* (Rome: Edizioni Studium, 1990); and Paul Droulers, “Question social, Etat, Eglise, dans la ‘Civiltà Cattolica’ à ses débuts,” in *Cattolicesimo sociale nei secoli XIX e XX. Saggi di storia e sociologia* (Rome: Edizioni di storia e letteratura, 1982).

² Thomas C. Behr, *Social Justice & Subsidiarity: Luigi Taparelli and the Origins of Modern Catholic Social Thought* (Washington, D.C.: The Catholic University of America Press, 2019), 61-68.

³ *Nicomachean Ethics* 10.

⁴ *Summa theologiae* I-II, q. 94, a. 4.

⁵ *Summa theologiae* I-II, q. 96, a. 2.

social teaching. Issued two years after Taparelli's death, Pius IX's "Syllabus of Errors" represents the kind of clarity on theoretical principles that Taparelli insisted on, as the necessary starting point of any authentic dialogue, but it received harsh criticism from figures like Döllinger, Montalembert, and Acton.¹

Despite Taparelli's central role in the development of modern Catholic social teaching, his work is not widely known. During his twelve years of polemical writings in *Civiltà Cattolica*, 1850 to 1862, his articles earned him a reputation among liberal Catholics and Catholic Liberals as a reactionary, and Leo XIII was reticent to associate Taparelli's name with *Rerum novarum*, the *magna carta* of Catholic social teaching. Thus there is a paradox in that Taparelli's notoriety while alive became a cause for his obscurity in death. Although his *Treatise* was in circulation on the Continent, his only writing to be translated into English² was a lecture that he gave in 1846 at the Academy of Catholic Religion in Rome, entitled "The Influence of Catholic Prayer on Civilization."

This lecture was published in Orestes Brownson's *Quarterly Review* in the portentous year of 1848.³ This presentation, on the relationship between Catholic prayer and civilization, might seem an unusual item to select from Taparelli's natural law corpus, but Brownson understood the implications of the claims being made not just on the necessity of religion to have a stable social order (something that the American founders would have taken for granted, along with many European Enlightenment figures with varying degrees of cynicism) but more profoundly on how Catholic prayer uniquely prepares people for fulfillment and for flourishing in truth and social harmony. As Brownson writes in his brief introduction:

It is an essay which, if studied, will be found to be especially adapted to our times and country – to teach the truths which we need now more than ever, and to correct the folly and madness of those who are seeking to advance and to elevate the laboring classes by methods which leave out religion, and place reliance on humanity alone.... In a few words, and apparently without intending it, it refutes and utterly explodes all the systems of the

¹ See Thomas C. Behr, "The 19th Century Historical and Intellectual Context of Catholic Social Teaching," in *Catholic Social Teaching: A Volume of Scholarly Essays*, ed. Gerard Bradley and Christian Brugger (Cambridge: Cambridge University Press, 2019), 34-65: 45-47. Liberals decried the explication of the "Syllabus" by Msgr. Dupanloup, who had explained the thesis and hypothesis distinction, as benighted medieval obscurantism.

² See "Appendix" in *ibid.*, 201-31, on "Subsidiarity" excerpts from the *Theoretical Treatise*, and also Luigi Taparelli, "Analisi critica dei primi concetti dell'economia sociale," *Civiltà Cattolica*, s. III, vol. VIII (1857): 546-59, and vol. IX (1858): 17-34. English: Luigi Taparelli, "Critical Analysis of the First Principles of Political Economy," trans. Thomas Behr, *Journal of Markets and Morality* 14, no. 2 (2011): 613-38.

³ *Brownson's Quarterly Review* 2, no. 3 (1848): 345-79.

Economists, Communists, and Associationists,¹ the gods of this godless age, and renders ridiculous the loud shout of LIBERTY, EQUALITY, FRATERNITY, in a merely humanitarian sense, which just now comes upon our ears with deafening force, from almost every land.²

The purpose of the present article is primarily to present Taparelli's argument as a turning point in nineteenth-century apologetics, not just in the face of rationalism and religious latitudinarianism but in response to the advancing march of laissez-faire liberalism and of revolutionary socialism. Taparelli anticipates the argument described generations later by William James on the surplus psychological energy that believers have in supernatural religious experience.³ He adds that what James would later call the "over-beliefs" of Catholicism (James's term for doctrines over above the basic "ideal type") offer particular philosophical and moral direction that induce harmony and unity in society. Taparelli's argument that the self-examination inspired by Catholic hope in salvation, encouraged by God's fatherly love, inspires compassion and self-sacrifice for the common good. This contrasts dramatically with the spiritual disenchantment and "iron cage" of rationalism that Max Weber foresaw as the civilizational result of Calvin's predestinarian asceticism.⁴ Ideas have consequences for the constitution of every society, and the cultivation of certain ideas – of duty, self-sacrifice, honor – would seem to be essential to any sense of obligation in conscience to constitutions themselves. Describing the salutary consequences (sociocultural, political, and economic) of Catholic prayer, Taparelli implicitly poses the problem that Brownson grasped immediately, that Pius IX well understood, and that Western liberal democracies have had to confront ever since: Can a policy of cultural indifference not help but lead to relativism, anarchy, and revolution?

The Argument

Taparelli had begun his treatise on natural right with the premise that a common ethos of life, a unity of consciences subordinated to objective truths in

¹ From Fourier's (1772-1837) term for his theory of historical stages, culminating in "Compound Association" or "Harmonism" of utopian socialist phalansteries. Fourierism impacted utopian socialist movements in America and was adopted by the struggling transcendentalist utopians of Brook Farm in Massachusetts from 1844 until their bankruptcy in 1847. Carl J. Guarneri, *The Utopian Alternative: Fourierism in Nineteenth-Century America* (Ithaca, NY: Cornell University Press, 1991).

² Brownson, 345.

³ William James, *The Varieties of Religious Experience: A Study in Human Nature, Being the Gifford Lectures on Natural Religion Delivered at Edinburgh in 1901-1902* (New York, London: Longmans, Green, and Co., 1902).

⁴ Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (London & Boston, Unwin Hyman, 1930); original in German, 1905.

the metaphysical order, or at least in the natural order, is required for authentic human progress.¹ This dependence is based on his Aristotelian understanding of human nature as including material, social, and intellectual aspects.

The contribution of Catholic faith and institutions to the development of European civilization was not a new topic in 1846. The idea figures prominently in the widely disseminated works of Chateaubriand,² of de Maistre,³ and later of Balmes⁴ – all works with which Taparelli was very familiar. Differently from them, Taparelli presents in his lecture a pragmatic analysis of the sociocultural effects of Catholic devotions, specifically by analyzing how the cultivation of mental habits, psychological motivations, and social virtues takes place in the individual and how these foster the development of a philosophical disposition. His exposition anticipates, in surprising ways not only the psychosociological research of William James and Max Weber but also the keen empirical observations of Tocqueville on the character and function of religion in America. Taparelli's thesis is this: "Catholic prayer, apparently only designed to obtain graces from heaven, is one of the most active causes of civilization and social welfare."⁵

Cultivation of Philosophical Habits

For Taparelli, "Catholic prayer embraces every elevation of the mind to God, excited by faith, animated by charity, aided by the Sacrifice and the Sacraments, guided by the authority of the Church, and directed chiefly to the end of

¹ *Saggio*, "Introduzione." Note that three major pastoral letters issued by Gioacchino Pecci (the future Pope Leo XIII) as he was preparing for retirement, from his diocese of Perugia, "The Catholic Church in the 19th Century" (1876), and "The Church and Civilization" in two parts, 1877 and 1878, reiterate this Taparellian theme on the prerequisites of authentic human progress: rejection of radical secularization, of unchecked profit motive, and of idolatry of state power. Thomas Behr, "The 19th Century Historical and Intellectual Context of Catholic Social Teaching," in *Catholic Social Teaching: A Volume of Scholarly Essays*, ed. Gerard Bradley and Christian Brugger (Cambridge: Cambridge University Press, 2019), 34-66, 54.

² Especially *Génie du Christianisme* (1802); see Georges Bertrin, "François-René de Chateaubriand," in *The Catholic Encyclopedia*, Vol. 3 (New York: Robert Appleton Company, 1908), available at <http://www.newadvent.org/cathen/03640a.htm>.

³ Especially *Du Pape* (1819); see Georges Bertrin, "Joseph-Marie, Comte de Maistre," in *The Catholic Encyclopedia*, Vol. 9 (New York: Robert Appleton Company, 1910), available at <http://www.newadvent.org/cathen/09554a.htm>.

⁴ For example, *Protestantism Compared with Catholicism in Relation to European Civilization* (1842-45); see Francis Siegfried, "Jaime Luciano Balmes," in *The Catholic Encyclopedia*, Vol. 2 (New York: Robert Appleton Company, 1907), available at <http://www.newadvent.org/cathen/02224b.htm>.

⁵ *Brownson's Quarterly Review* 2, no. 3 (1848): 347.

supernatural eternal happiness, by means of good works.”¹ When prayer thus conceived becomes a habit of the heart, he calls it the “*spirit of prayer*.”

In other words, then, Taparelli identifies three key elements of Catholic prayer – energy (faith, charity), unifying authority (sacraments, magisterium), and transcendental purpose (hope-inspired good works). He says, “Truth, certainty, [and] love, are principles of activity; external rites and presiding authority are principles of unity; [hope in] eternal life, to which Catholic prayer chiefly aspires, is a principle of generosity, and of entire sacrifice of paltry worldly interest.”² Other sects and faiths, Taparelli claims, risk being deprived of one or more of the principles that can work together toward personal perfection, social well-being, and authentic human progress.

Adopting reasoning from Bentham,³ Taparelli quotes “the best laws are those that without need of watching, sanctioning, or insisting, execute themselves, by themselves.”⁴ With Rousseau, he would agree that the moral teachings of Rousseau’s “fellow sophists” fail because they are devoid of feeling and efficacious sanction. Taparelli joins Jean-Baptiste Say in pointing out that “the great art of legislation consists, ‘*not in willing the effect, but in effecting the will*.’”⁵

Sounding very much like Adam Smith, Taparelli explains,

For [motivating the will]...it is necessary to attach to the act prescribed a ready and obvious advantage to the agent. A command thus given urges each individual to work with greater assiduity in seconding the secret intention of the legislator towards the common good, in proportion to the intensity of the individual’s desire of the private advantage hoped for, without need of commands and sanctions. ...Now the hope of the Christian, of course, is in prayer.⁶

The specifics of Catholic devotions encourage the ready appeal of prayer in every occasion, with confidence that the author of life is intimately concerned with our true welfare. He elaborates the incentives and feelings involved when he writes:

The Catholic, so long as he remains unshaken in his belief that prayer is *necessary* to eternal salvation, and always a most useful, if not an absolutely certain, means towards temporal good, will ever be induced to pray; ...whether he think of heaven or be stimulated

¹ Ibid., 349.

² Ibid.

³ Taparelli, “Influence of Catholic Prayer,” 350. Citing “the beastly and filthy [Bentham], but in practical matters keen sighted,” Taparelli could detest the “Epicurean naturalism” of someone like Bentham, while appreciating his (misguided) intellect.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

by temporal want.... He is a man who feels a perpetual need of prayer, because by himself he can do nothing, because from God he hopes every thing. He is, moreover, comforted in this by the light in which faith presents to him his God, whom in charity he embraces.... [T]he Catholic religion alone knew how to say to God, 'My Father'...explained by the Apostle, where he says that God infused into us the spirit of his Son, crying in our heart, *Abba*, Father! Nor did he make himself only our Father, but elevated in such a manner the spiritual love and intimate confidence of the soul that [Catholic prayer] dared even (comforted by the language of the Canticles and of the Apocalypse) to address him as [a] spouse.¹

Taparelli then looks to demonstrate that Catholic prayer is not only effective in its “self-executing” discipline, in Bentham’s sense, for cultivating energy, direction, and purpose in the individual, but is also the most efficient means of advancing civilization: Catholic devotions also prepare individuals for participation in harmonious social relations.

Individuals are first prepared for society by living in the family. Both of the spouses in a marriage, by “free election” and “harmonious cohabitation,” educate and assimilate themselves as individuals, but this in itself is not a sufficient guarantor of social unity. Considering concerns that Rousseau and other Enlightenment progressives had raised about the antisocial potential of isolated families, with their “peculiar ideas, peculiar interests, peculiar objects,” Taparelli warns: “Would you destroy these? Then will you destroy the family, or of a certainty its liberty and welfare.”²

The question then for him is: “in virtue of what authority will society bind the mind and the heart? ...Religion alone is able to prepare [individuals in society] for reciprocal attraction by the affinity of moral doctrine grounded upon the authority of her infallible teachings.”³

The solution to the tension between individual egoism and self-sacrifice required for pursuit of the common good in society is in the spirit of Catholic prayer. Taparelli makes the case that Catholic prayer fosters the necessary philosophical disposition for civilizational advancement. And here I quote extensively from his argument:

[F]or the Catholic, to teach prayers and to teach [meditation] are words that mean nearly one and the same thing. Now where is the difference between *meditating* and *philosophizing*? To ponder the truth and certainty of principles, to develop accurately each of their

¹ Ibid., 351.

² Taparelli was highly sensitive to the radical socialist claims of Rousseau, Beccaria, and Mazzini (further advanced by Marx and his heirs) that social unity required the abolition of the traditional nuclear family. Behr, *Social Justice & Subsidiarity*, 115 n., 138 n.

³ Ibid., 354.

consequences, to measure their practical application, – this is what the Catholic means by *meditation*. To this inward process the Church invites us, when she invites us to prayer, proportioning the means to every capacity. To the rude and unripe she gives the Rosary, or the Way of the Cross, to the instructed the sublime aspirations of the Psalms, or the itinerary of Bonaventure, Anselm, and Ballarmino. The lessons are different, but the mastery is common to all.¹

The Church, ...in order to teach prayer, teaches how to meditate, and teaching meditation teaches the people to philosophize, perfecting their natural logic by a perpetual application of the most sublime truths.²

This is to say, an interior development of the intellectual virtues accompanies the contemplation of principles of the faith as they apply to personal inspirations and resolutions in practical life. Moreover, the approach of the Catholic to prayer and means of engaging in contemplative prayer are not restricted to spiritual adepts or elites; rather, Catholic prayer has a richness and depth that meets Catholics where they are culturally.

He elaborates on the wonderfully deep implications – the metaphysical, anthropological, and ethical implications – that the Catholic in the spirit of prayer contemplates, without any formal instruction in philosophical or theological concepts. Catholic prayer engages the Catholic who prays directly in the work of speculative and practical reason:

The prayer of the Catholic essentially aspires to the kingdom of God, and to the order of justice through which it is obtained.... [T]he Catholic is well aware that no temporal good can be prayed for with propriety, if it be foreign to his final end; whence his first glance, when he goes to prayer, is towards his Father who is in heaven, of whom he asks his kingdom, a kingdom of happiness in heaven, a kingdom of order on earth. This petition is essentially coupled with notions of the most sublime metaphysical truths and natural ethical maxims. For he to whom those that pray address themselves is the universal Creator, Preserver, Provider; were he not such, they would not pray to him. The occasion of prayer is the conflict between the terrible dualism of good and evil, moral and physical, which continually reminds them of the first parents' fall, – that first source of sin, misery, and weakness of their own powers, – and the mercy of God the Restorer, the grace wherewith he comforts them, the necessity of their cooperation, and of that final reward which, crowning their victories, will justify in full the ways of Providence. The existence [of God the Creator] and [his] retributive justice, immortality, the liberty of man, his sin, his punishment, his restoration, his feebleness, his elevation through grace, – are not these, in brief terms, the main dogmata of Catholic metaphysics and ethics?³

Taparelli explains how the Catholic is habituated in prayer to consider his own

¹ *Ibid.*, 355.

² *Ibid.*, 355-56.

³ *Ibid.*, 356-57.

highest interest in “the reign of justice and order” among men: “Do to others as you would have them do to you” (Lk 6:31); “Give, and it will be given to you” (Lk 6:38); “Forgive, and you will be forgiven” (Lk 6:37); such that, as Taparelli says,

To revive so unceasingly in the breasts of a whole society sentiments of obedience and love, and to revive them at the feet of a common Father, in the act of petitioning for what is most ardently desired, and as a condition necessary to obtain it, – what is this but to bind that society with the strongest ties that can join together men of understanding and will?¹

As a vehicle useful for mastery of the interior life, Taparelli points to the *Spiritual Exercises* of St. Ignatius, in use since the sixteenth century and widely practiced in his day by religious communities and Church prelates as well as by lay individuals and groups in parish missions. Taparelli asks, “[W]hat are the Spiritual Exercises but a course of Christian moral philosophy fitted to the comprehension of the public?”² As he explains,

[The Catholic multitude] are taught, in the first place, the logic of meditation, hearing the rules first, and then the meditation in practice. The subjects to be meditated upon are a compendious but solid and touching system of morals, natural and Christian, reduced to the rigor of science. For, beginning with the axiom which forms the basis of all practical sciences, ‘*The action must be determined by the intention, as the means by the end,*’ the Exercises proceed to develop to the popular comprehension the duty that binds us to obey the Creator; the woeful results which have followed, and still follow, from disobedience; the necessity of God’s intervention to give us examples of life, doctrines of law, and the powerful aid of grace.³

External Bond of Social Perfection

Taparelli had as his political ideal the Catholic confessional state – not of any particular form of regime but as a society with essential agreement on the main truths of creation, human nature, and human destiny. The abstract natural rights regarding political organization in every case must be hypothesized to take into account concrete historical reality and conflicting rights. But Taparelli surely would have been amazed at how far the political discourse has gone, from enlightened toleration of differences to the supremacy of diversity among the last standing public “virtues.”⁴ However, the trajectory leading to a tyranny of

¹ Ibid., 368.

² Ibid., 360.

³ Ibid.

⁴ Lest we forget, it was already Immanuel Kant in his essay “What is Enlightenment?” who states his prince will give “complete freedom” in religious matters while “renouncing the haughty name of *tolerance*” – so long as the prince has “a numerous and well-disciplined army.” See Isaac Kramnick, *The Portable Enlightenment Reader* (New York: Penguin Books, 1995), 6-7.

relativism would not have surprised him. If, in the realm of theory, perfect political “union” can be based only on a consensus concerning ultimate ends, the ultimate common good, of a society, it was clear to him at the other extreme that it would be an illusion, or even deception, to think that a harmonious society could be built upon philanthropic ideas of toleration, even less so upon dogmatic relativism. He says,

I cannot understand society without union, nor union without a bond, nor a bond of intelligent beings without truth.... The existence of unity in contrast I can understand, if there be a higher power to combine the parts; but the idea of unity derived only from [diversity] seems to me incomprehensible and contradictory.¹

Heterogeneity of interests and of beliefs certainly in modern times is the normal state of the world in concrete reality, and tolerance can well be a working principle of social flourishing. But “unity in contrast” requires intellectual/spiritual assent and obligation to some higher law by the social parts, down to individuals – some higher authority that carries with it some supervalent energy and purpose. Trading off the energy, authority, and purpose of Catholic faith comes at a cost:

How wretched those societies that drew back their lips from this fount of perfection! Do they need help for the poor? Then recourse must be had to a tax for paupers, as voluntary alms-giving has ceased.... Do they need a check upon the overflow of population? The marriage must be countermanded, for the idea of virginal perfection is out of date.... Laws upon laws, and new laws upon new laws, and salaried officers to see that they are observed, and salaried inspectors to watch over the officers, and freedom of complaint to keep straight the inspectors, and repeated punishments. Alas! What a complication of social machinery to obtain in a bungling manner, and by compulsion, what would be effected by the spirit of charity spontaneously and to perfection!²

While “perfection” is the standard aimed at, Taparelli notes that harmony in society requires a proper balance between individual thought and abilities with a respect for order and common purpose. This balance can be determined and imposed from the outside so to speak, by political force, or from the inside by spiritual disposition and moral habituation. Taparelli takes it as an axiom of human behavior that men will be governed by conscience or by bayonets. It is from the internal perfections offered by the Catholic spirit of prayer that the perfection of external harmony is made possible, through gentle and most effective means:

¹ Taparelli, “Influence of Catholic Prayer,” 374.

² *Ibid.*, 376.

Human society is a union of men, that is to say, of organic beings endowed with intelligence and volition, for a common object or good. Its perfection, therefore, must consist in a perfect *union* of perfect *men*, for a perfect *end*, to be gained by a perfect *operation: intellectual, moral, and material....* Can [a society founded on some practical advantage] be called *humanly perfect*, or *perfectly human*, while it excludes from the association the most proper object of the noblest of man's faculties, Absolute Truth, – while it excludes the dearest interest of man's will, Eternal Good?¹

It is vain, therefore, that modern philanthropic toleration would fain hope to establish universal association amongst men, removing the discrepancy of intellects by *tolerating* every doctrine.... Prayer, then, forms in the breasts of Catholics an habitual inclination to consider the association of all men in the arms of the Heavenly Father as the acme of social perfection. *Peter noster, – adveniat regnum tuum!* We, who pray in unity of spirit, cling with all the people of all ages to the same formularies of the same language.... And if such be the spirit of *private* prayer, how much more evidently social will the spirit of *public* prayer appear! ...Could man ever conceive a thing more divinely social than the Catholic Sacrifice, where the *common* banquet, the most natural symbol of closest intimacy, presents all men with superangelic bread...identical with that which during eighteen centuries has been broken and distributed amongst Catholics under the name of *Communion*?²

Thus the unity of common identity and common pursuit is found at the foot of the altar, and harmony in society is not dependent on leveling all interests and estates, with unjust and immobilizing regulations, but founded on the common pursuit of individual perfection and assisted by prudent spiritual direction in the office of the priest. Taparelli writes: “The function of impelling each one with discretion of energy to the perfection of which he is individually capable can be exercised only by the Catholic priesthood, and nowhere better than in the act of reconciliation, when the heart, repentant of its faults, wishes to make due reparation.”³

Taparelli still had hope for European political society reconnecting with its religious foundations. One faith, one Church, one spirit of Catholic prayer would make possible a perfection of society and universal civilization – in theory. His natural right theorizing based on fact was specifically motivated by the necessity in revolutionary Europe of coming to terms with the sociocultural realities of world historical development.

Taparelli's contribution to the development of modern Catholic social teaching includes what we have seen is his dialectical method of reconciling theoretical right with concrete facts of time and place. We have a case study of how theory, abstract natural right, is instantiated in historical facts requiring practical application of principles in context, from Taparelli's own life. When he found himself in the middle of the 1848 revolution in Palermo, he penned a

¹ Ibid., 362.

² Ibid., 366.

³ Ibid., 376.

manifesto on “Liberty of Association” in which the theoretical rights of the Church had to be reconciled with the de facto antireligious hostility of the new regime. In those concrete circumstances, the best that could be achieved was respect for the freedom of association. Such is the nature of an imperfect political union.¹

Taparelli explained in his treatise that in pluralistic societies where ultimate ends are contentious, unity (under authority of higher law) must rest upon the highest common denominator derived from human nature and the nature of society itself. Any society more than an accidental agglomeration of isolated individuals must have some common end, some common good – the good of each person, pursued in common with others – that can direct common action, a higher purpose that can “combine the parts.” Natural felicity he takes as that denominator. For that end, the common good is the protection of the exercise of inalienable human rights: the *sine qua non* of any society. Respect for these rights to life, liberty, and the pursuit of happiness is the minimum condition that makes any (free) society a society.²

Taparelli argues that the Catholic spirit of prayer, with the energy of faith and love, the unity of sacraments and magisterium, and the hope eternal reward, corresponds perfectly to the composite nature of the human person and to the needs for the complete flourishing of economic, social, and political life. Taparelli would suggest that any system of belief, worldview, or ideology that substitutes for any of those parts revealed, meditated, mastered, and applied in Catholic devotions – the specifics of Catholic faith – leaves a weakened substitute upon which to build a truly free society, one of ordered liberty, and is left all the more subject to disintegration from entropic egotism.

In conclusion, it is interesting to note that Taparelli was a student of the experiment in pluralistic political union in the United States of America and had admiration for the effort here to maintain, in truth, freedom of religion and the deference that is required for the self-governance of religious institutions. The United States was thus far from a perfect union in Taparelli’s eyes (as he observed events through the 1850s), but a “more perfect” one compared with the radical secularizing policies of most of liberal Europe. Taparelli ridiculed the shibboleth taken up in Europe of “a free church in a free state” as the answer to presumed religious conflict in the nineteenth century – particularly in his own state of Piedmont in Risorgimento Italy. He deconstructed just how the liberal version of separation of church and state aimed at marginalization of Catholic faith and

¹ Taparelli, “Sulla libertà di associazione,” in Gabriele De Rosa, *I Gesuiti in Sicilia e la Rivoluzione del '48* (Rome: Edizioni di Storia e Letteratura, 1963), 211–45.

² Taparelli, *Saggio teoretico*, secs. 360, 740, 745, 746; Behr, *Social Justice & Subsidiarity*, 50, 80, 190.

enervation of Catholic institutions. He revealed how the ideology of toleration facilitated the expansion of modern state power.¹

If a version of “separation of church and state” in the newly minted United States held out some prospect of “unity in contrast,” it is essential to remember just how deep and broad was the religious culture of the founders and first generations of Americans. All together, if imperfectly, the respect of those generations for Providence and higher law – discoverable, they believed, even in the book of nature – their understanding of limited, republican government, of liberty constrained by law, of public virtue based on private virtue, of the wisdom of the ages, provided the energy, unity, and purpose that made the progress of American civilization possible. A lesson that the ancient theorists of the political cycle and of the luxury cycle understood from their study of history and human psychology is that those beliefs that could be called the constitution before the constitution, those habits of mind and virtues of self-control that make unity in contrast possible, can be lost in as little as one generation. In the 1850s, Taparelli admired what he saw as the church and state interdependence that he saw in American political discourse and verified in constitutional jurisprudence. There would have been reason to hope that evangelization would always be possible where the Catholic spirit of prayer was allowed to flourish. But Taparelli was also shrewdly sensitive to the corrupting character of state power and to the siren call from the “gods of [that] godless age” – laissez-faire capitalism, revolutionary communism, and utopian socialism. He doubted that the American experiment in church-state *interdependence* could long be successful.

¹ Anticipating the argument raised in A. J. Conyers, *The Long Truce: How Toleration Made the World Safe for Power and Profit* (Dallas: Spence Publishing, 2001).

Book Reviews

David Vincent Meconi, S.J. *On Self-Harm, Narcissism, Atonement, and the Vulnerable Christ*. Foreword by Eleonore Stump. Reading Augustine Series. New York: Bloomsbury Academic, 2020. 165 pp. Paper, \$30.00.

Reviewed by Aaron Pidel, S.J., Marquette University

The book under review traces the origins of self-harm, in both its ancient and contemporary guises, back to what Augustine's *City of God* calls "love of self, even to the point of contempt for God." This slim monograph manages to achieve relevance for a contemporary culture beset by cutting, opioid addictions, and anxiety without sacrificing theological depth or fidelity to Augustine's thought.

The first chapter ("God and Those Made to Become Like God") develops Augustine's Trinitarian anthropology. Profiling Augustine's thought against the background of early Trinitarian theology, the author shows how the Doctor of Grace manages to avoid the Scylla of Arian subordinationism and the Charybdis of Sabellian modalism by reconceiving the Trinitarian persons as substantial relations. The relationality of the Godhead implies that the human *imago Dei*, as it strives to conform to its archetype, will become not less but more relational – both vertically and horizontally. Vertically, the human person comes to possess the *imago Dei* most fully not by the mere possession of memory, understanding, and will, but by using the threefold faculty doxologically. Horizontally, Augustine's anthropology is relational to the point of conceiving all sin as a kind of *incurvatio in se*, a turning toward the self that eventuates in a turning against the self. The author illustrates this dynamic with Augustine's reaction to the loss of his unnamed friend in *Confessions* IV, which left him thrown back upon a self that had become an "enigma." Though critics often blame Augustine for the post-Cartesian fixation on the isolated self, nothing could be further from the truth.

Chapter 2 ("Becoming God without God?") explores Augustine's hamartiology. It presents pride, understood as love of one's "own superiority" (44), as the fountainhead from which all sinful actions and all human misery flow. Drawing on Augustine's many treatments of Genesis, the author shows how both angels and humans rebel according to a common pattern, namely, the choosing of self as an ersatz deity. In the case of humans, who are created good but incomplete, this means attempting to complete oneself, both by inverting the *ordo amorum* (the favored conceptuality of the early Augustine) and by choosing one's private good over the common good (the favored conceptuality of Augustine after

400 A.D.). In every case, when persons try to make themselves more than they are, they become less than they could be, thereby inflicting the ultimate self-harm.

Chapter 3 (“Those Pears: Sin as Self-Sabotage”) offers an answer to those who wonder why Augustine so bitterly lamented his youthful theft of pears, a crime that most would be inclined to dismiss as an adolescent prank. The author begins by noting the narrative’s many intra- and intertextual resonances, ranging from the other garden scenes of the *Confessions* to the Prodigal Son of Luke’s Gospel. Especially interesting is the argument that the pear tree evokes not only the forbidden fruit of Genesis but the Manichaean belief that the fruit contains sparks of trapped divinity – a higher good that Augustine would have thereby subordinated to the lower good of swine. The chapter represents, in sum, a sustained meditation on the mysterious motive that Augustine offers for his theft: “I fell in love with my own ruin” (*amavi perire*). It concludes that the sin haunts Augustine precisely because he can find no explanation for it beyond his appetite for self-destruction.

Chapter 4 (“Narcissism and the Paradox of Self-Love”) expounds the disjunction that runs through so much of Augustine’s theology of charity: either love of God above all creatures, or a narcissism that finds a twisted satisfaction in self-destruction. For Augustine, the author argues, love can never be solipsistic because one must vulnerably love someone else before one can properly love oneself. If Augustine had ever commented on Ovid’s version of the myth of Narcissus, the author speculates, he would have likely focused not on the young man’s end state, that is, his paralyzing fascination with his own image, but on his initial flight from the infatuated nymph Echo. The myth thus serves as a cautionary tale not so much against the active narcissism of swaggering overconfidence as against the passive narcissism of attachment to aseity. When we make our own security paramount, our mind turns on itself almost like an immune system that longer recognizes its own DNA. The consequent tendency is to caricature reality so as to protect improper self-love, a tendency that Augustine recognized retrospectively in his youthful contempt for the Catholic Church.

Chapter 5 (“Atonement and the Vulnerable Christ”) explains how Augustine understands the incarnation to furnish the remedy for our self-destructive isolation. By becoming man and dying on the cross as the *Christus deformis*, God identifies with and cures the *homo deformis*. This insight structures Augustine’s preaching. The bishop of Hippo typically begins by inviting congregants to examine their own indigence and then proceeds to present Christ as the only adequate fulfillment of the *cor inquietum*. Christ satisfies, in turn, by identifying himself with a corporate body, the Church. In becoming our neighbor, God has made it possible for us to love him by loving our neighbor rightly. The author suggests that Augustine, as he matures pastorally and gains emotional distance

from his youthful unchastity, construes less competitively the relationship between love of God and love of neighbor. Whereas the newly ordained Augustine would preach “God is love” (but not vice versa), the spiritually mature Augustine of the *Homilies of the First Epistle on John* can say with equal conviction “Love is God.” The ability to love God by God’s grace and through neighbor heals the fragmented self.

In the final analysis, then, and despite its gritty title, *On Self-Harm, Narcissism, Atonement and the Vulnerable Christ* accentuates the more positive and humanistic strands in Augustine’s account of human transformation. The book favorably contrasts Augustine’s relatively positive view of nature with the “stern-minded Christianity” of the Desert Fathers (135). The Augustine who preaches the fulfillment of cherished desires prevails over the Augustine who preaches an impending judgment. The Augustine who portrays God as all-embracing love wins out over the Augustine who accepts the damnation of unbaptized infants. The Augustine who learns the noncompetitive quality of God-love and neighbor-love and who comes to see “how his congregants love their children and boast about their grandchildren” (150), predominates over the Augustine of *De nuptiis et concupiscentia*, who warns sternly of the dangers of marital concupiscence and gives virginity pride of place. The author’s pastoral instincts, in short, lead him to foreground those aspects of Augustine more attractive to contemporary sensibilities and, arguably, more responsive to today’s needs.

These same pastoral instincts, combined with a deep knowledge of Augustine, prove to be the book’s great strength. The author’s long experience of teaching Augustine, mentioned *obiter* at several points in the book, has clearly “magnetized” his mind to the apt contemporary illustration or parallel. He dramatizes the appetite for ruin with situations familiar to those pastorally engaged in today’s culture: cutting, pornography and masturbation, addiction, and so on. The book opens with the moving story of a man wearing a blasphemous t-shirt who, upon being confronted, admits perceptively, “Father, I hate myself so much, I want everyone else to hate me too.” The chapter on “Narcissism and the Paradox of Self-Love” likewise teems with illuminating connections. A *Rolling Stone* interview with the singer Marianne Faithfull connects narcissism to self-hatred in the dynamic of substance abuse. Psychological literature on narcissistic personality disorder and a character study of Mayella Ewell from *To Kill a Mockingbird* round out the picture. The book shuttles back and forth between Augustine’s idiom and our own, providing a kind of ongoing cultural translation.

Though this might seem to give the book an uneven tone, neither scholarly nor popular, I think the book largely succeeds as a bridge across the two registers. It offers the scholar a subtle reading of Augustine on sin and justification. It offers the student accessible examples of otherwise intangible concepts. I am confident

that I will both pray and teach better for having read it. The author is to be congratulated.

Benedict XVI and Robert Cardinal Sarah. *From the Depths of Our Hearts: Priesthood, Celibacy, and the Crisis of the Catholic Church*. Translated by Michael J. Miller. San Francisco: Ignatius Press, 2020.

Reviewed by Joseph W. Koterski, S.J., Fordham University

By deliberately following Augustine's example of publishing some of his correspondence so that believers could be better instructed about the truths of the faith, Pope Emeritus Benedict XVI and Robert Cardinal Sarah have given us much wisdom about a crisis now facing the Church.

The volume includes a joint introduction entitled "What Do You Fear?" and a joint conclusion under the title "In the Shadow of the Cross" as well as an essay by the pope emeritus called "The Catholic Priesthood" and one by Cardinal Sarah that contains insights of his own as well as commentary on relevant passages from various writings of Benedict. It is entitled "Loving to the End: An Ecclesial and Pastoral Look at Priestly Celibacy."

Their correspondence, the authors explain, is the fruit of prayer and silent meditation amid the public din that arose during preparations for the Amazonian Synod. The silence they cultivated before the Lord allowed them to see that they simply "could not remain silent" if such silence endangered the flock that Christ, the prince of all shepherds and pastors, had entrusted to them.

Their joint introduction voices the spirit of love for the unity of the Church, the spirit of charity in seeking the truth, and the spirit of obedience to Pope Francis that guided their deliberations. To the authors, it seemed that the long-running storm of relativism, then swirling around the extraordinary synod, threatened to swamp the barque of the Church. In their silence, they found a renewal of confidence in Christ as the one steering the ship and guaranteeing that it will never sink.

In hindsight, it seems clear that this book played a vital role in countering the momentum that was building in favor of ordaining married men judged to be *viri probati* as a way to provide clergy for the Amazon. Cardinal Sarah's essay deals with that issue directly by pointing out the principles that ought to govern deliberations on a topic like this. Benedict's essay locates the deep roots of the problem in a misunderstanding of the priesthood that can be traced to a methodological flaw in the reception of scripture as the Word of God. He writes:

The abandonment of the Christological interpretation of the Old Testament led many contemporary exegetes to a deficient theology of worship. They did not understand that Jesus, far from abolishing the worship and adoration owed to God, took them upon himself and accomplished them in the loving act of his sacrifice. As a result, some went so far as to reject the necessity of an authentically cultic priesthood in the New Covenant. (25)

The ancient motto *lex orandi, lex credendi* not only indicates what ought to be the case about worship and about belief but also points to two ways in which things can go wrong. Failures in doctrine can distort prayer, and unorthodox ways of praying can confuse the way in which the faith is understood and taught. Benedict's essay identifies a serious error in the interpretation of the scriptures that has disastrous consequences for the Church's liturgical life, and Sarah's essay takes note of the ways in which ill-advised changes in the priesthood and the liturgy would bring immeasurable harm to the understanding of the truths of the faith.

Revelation provides what we need for salvation, and it in this light that Benedict here reflects on another facet of what revelation shows us about true worship. In a similar way, John Paul II's great moral encyclicals showed the errors to which moral theology is prone when rationalism is permitted to limit the contribution of revelation to providing fragmentary proof texts. Mindful of the charge that Vatican II's *Optatam totius* gave to moral theologians to root their moral teachings deeply in scripture, properly understood, John Paul II exemplified the proper way of doing this in both *Veritatis splendor* and *Evangelium vitae*. So too Benedict here explains the fundamental exegetical structure needed for a correct theology of the priesthood. He then applies this hermeneutic to three key biblical texts and shows how they indicate the need for celibacy, liturgical prayer, regular meditation on the Word of God, and the renunciation of material goods.

For more than a generation the study of the scriptures has been dominated by historical-critical studies whose importance is undeniable. Only recently, however, has genuine biblical theology been returning as to the fore in the academic study of the scriptures. One of the great losses in this period has been a sense of the indispensable need to read the Old Testament in the light of Christ and the Holy Spirit. The three volumes of Benedict's *Jesus of Nazareth* are a *tour de force* in how this is to be done, with appropriate respect for the historical-critical scholarship as well as for the teaching of Vatican II's *Dei verbum* on the true nature of revelation as divine self-disclosure. Benedict's essay in this volume takes up this theme for the topic of celibacy and the priesthood.

The first section of his essay focuses on the relation of Jesus to the Temple. In Israel the priesthood was hereditary and its practices were recurrently subject to critique by the prophets. For Benedict, the life of Christ is at one with the prophetic critique of the Temple and yet not at all a repudiation of the priesthood.

He reviews various passages of the Gospels that show Jesus's relation to the Temple, including the conversation after Joseph and Mary when he asks "Did you not know that I must be in my Father's house" (Lk 2:49), the episode of the cleansing of the Temple (Mk 11:15ff and Jn 2:13-22), and Jesus's offering of his body and blood at the Last Supper as a liturgical sacrifice of what he would carry out the next day on the Cross. In his view, all of them foreshadow the eventual destruction of the Herodian Temple and its replacement with the temple of his body. For John, especially, Jesus's actions portray the replacement of Israel's priesthood with the new priesthood he establishes.

The essay explains, for example, the inadequacy of interpreting the cleansing of the Temple as only an effort to combat abuses there, as if it were a confirmation of its priesthood. All these passages, he argues, need to be seen as stages in the divine healing of God's people by the formation of a new and definitive form of worship, a new form of divine adoration, with a new priesthood that depends not only on heredity but on divine election and on the free response of those called to take up their vocation.

At the Last Supper, Jesus is both the priest who is offering the sacrifice and the victim being offered. Noting that the crucifixion of himself is not a cultic act but an execution done by soldiers, Benedict shows that by his liturgical act of giving his own flesh and blood to his disciples Jesus is acting as the high priest and interpreting the coming Cross and Resurrection. He transforms what is an act of human cruelty into an act of love and self-giving, and he does it in such a way that he institutes a form of worship that is forever valid and now obligatory for his followers.

In the course of Benedict's essay one finds insights into a wide range of related questions. Using the baptismal catecheses of Ambrose of Milan, for instance, Benedict explains the transformation of the structural elements of the Mosaic priesthood (the high priest, the Aaronide priests, the Levites) into structures of the Christian priesthood: *episkopos* (bishop), *presbyteros* (priest), and *diakonos* (deacon). There is also a remarkable section on how Luther's idiosyncratic reading of the Old Testament as an expression of law and thus not a pathway to God's grace led to his rejection of the Catholic understanding of the priesthood. A related portion of the essay recounts the way in which many postconciliar ecclesialogists came to be virtually allergic to the Christological and Pneumatological interpretation of the Old Testament and as a result coalesced the proper functions (*munera*) of ordained priests with many other important ministries of social concern, with the unforeseen and unintended effect of clericalizing the laity and arousing jealousy and false expectations.

The second half of the essay offers a properly Christological and Pneumatological interpretation of three texts crucial for the Christian notion of the

priesthood: Psalm 16:5-6 (for a long time part of the ordination of deacons), Deuteronomy 10:8 and 18-5-8 (whose words are incorporated into the Second Eucharist Prayer), and John 17:17 (as part of the high-priestly prayer of Jesus at the Last Supper). By bringing out the nature of the consecration that priests of Christ receive at ordination, Benedict shows the implications of these texts for such topics as clerical celibacy and the renunciation of material goods. He writes:

Since the priests of the Old Testament had to dedicate themselves to worship only during set times, marriage and the priesthood were compatible. But because of the regular and often even daily celebration of the Eucharist, the situation of the priests of the Church of Jesus Christ has changed radically. From now on, their entire life is in contact with the divine mystery. This requires on their part exclusivity with regard to God. Consequently, this excludes other ties that, like marriage, involve one's whole life. From the daily celebration of the Eucharist, which implies a permanent state of service to God, was born spontaneously the impossibility of a matrimonial bond. (41)

What Pope Benedict discusses theologically by pointing out the transition from the functional nature of temporary abstinence from sexuality in the priesthood of the Old Testament to an abiding and constitutive abstinence that needs to characterize the Christian priesthood, Cardinal Sarah examines pastorally. Commenting, for instance, on the implications of St. Paul's kenotic hymn (Phil 2:6-7), Cardinal Sarah writes:

He emptied himself of what he was in an act of freedom and love. Christ's abasement even to the Cross is not simply obedient, humble conduct. It is an act of self-abandonment through love in which the Son delivers himself entirely to the Father and to humanity: this is the foundation of Christ's priesthood. How, then, could a priest keep, preserve, and claim a right to a matrimonial bond? How could he refuse to make himself a slave with Jesus the priest? This total delivering of himself in Christ is the condition for a total gift of self to everyone. He who has not given himself totally to God is not given perfectly to his brethren. (69)

After recounting stories from his travels as a young priest to remote parts of Guinea that had been deprived of the sacraments for ten years by the government's expulsion of missionaries, he notes the unimaginable joy of the people when he celebrated Mass for them:

Allow me to state forcefully and with certainty: I think that if they have ordained married men in each village, the Eucharistic hunger of the faithful would have been extinguished. The people would have been cut off from the joy of receiving another Christ in the priest. For, with the instinct of faith, poor people know that a priest who has renounced marriage gives them the gift of all his spousal love. (70)

In story after story about the people of the young Church that was his diocese in Africa, he illustrates the confusion that would arise both about the sacrament of matrimony and about the sacrament of holy orders if “the obsessions that stem from theological milieus at universities” and “ideologies developed by a few theologians” are imposed on the people who would be the subject of the proposals being debated at the synod. In summation, he writes:

Consequently, I would like to express my indignation when I hear it said that the ordination of married men is a necessity since the people of Amazonia do not understand celibacy or that this reality will always be foreign to their culture. I see in this sort of argument a contemptuous, neo-colonialist, and infantilizing mentality that shocks me. All the peoples of the world are capable of understanding the Eucharistic logic of priestly celibacy. Are these peoples supposedly devoid of the instinct of the faith? Is it reasonable to think that God’s grace would be inaccessible to the peoples of Amazonia and that God would deprive them of the grace of priestly celibacy that the Church has guarded for centuries as a precious jewel? There is no culture that God’s grace cannot reach and transform. When God enters into a culture, he does not leave it intact. He destabilizes and purifies it. He transforms and divinizes it. (117)

Thankfully, the clear urgency of the events that prompted this volume has not obscured the clarity of the reasoning and the cogency of the examples that Benedict XVI and Robert Cardinal Sarah have provided by writing *From the Depths of Our Hearts*.

Mark S. Latkovic (1963 – 2020)

Mark S. Latkovic (November 2, 1963 – May 6, 2020) taught moral and systematic theology at Sacred Heart Major Seminary in Detroit, MI, since July 1990. After taking his B.A. in religious studies and philosophy from Cleveland State University in 1986, he received his S.T.L. and S.T.D. the Lateran University's Pontifical Pope John Paul II Institute for Studies on Marriage and Family. As a Michael J. McGivney Fellow, his licentiate thesis was a critique of the moral theologian Joseph Selling's understanding of the encyclical *Humanae vitae*. His doctoral dissertation was a study of the fundamental moral theology of Fr. Benedict Ashley, written under the direction of William E. May.

Prof. Latkovic's articles, essays, and book reviews have appeared in such publications as *Mosaic*, *The Michigan Catholic*, *OSV Newsweekly*, *The Detroit News*, *Detroit Free Press*, *The Plain Dealer*, *National Catholic Register*, *The Linacre Quarterly*, *Crisis Magazine*, *The Catholic Faith*, *Homiletic & Pastoral Review*, *Fellowship of Catholic Scholars Quarterly*, *Josephinum Journal of Theology*, *Ethics & Medics*, *National Catholic Bioethics Quarterly*, *Logos: A Journal of Catholic Thought and Culture*, *Markets & Morality*, *Nova et Vetera*, *Seminary Journal*, *The Catholic Answer*, *Religion & Liberty*, *The Human Life Review*, *Catholic World Report*, *Cardinal Newman Quarterly: A Journal of Catholic Ethical Thought*, *Truth & Charity Forum*, *Fathers for Good*, *Public Discourse*, *Life and Learning XV: The Proceedings of the Fifteenth University Faculty for Life Conference*, *Catholic Social Scientists Review*, *Proceedings from the 28th Annual Conference of the Fellowship of Catholic Scholars*, *Catholic Social Thought*, *Social Science*, and *Social Policy: An Encyclopedia*, *Artificial Nutrition and Hydration: The New Catholic Debate*, and the *New Catholic Encyclopedia* (Supplements), and *Catholic Social Thought*. One of his latest scholarly articles, "Conflicts of Conscience for Catholic Health Care Professionals," appears in *Contemporary Controversies in Catholic Bioethics* (2017).

Prof. Latkovic also co-edited, introduced, and contributed to *St. Thomas Aquinas and the Natural Law Tradition: Contemporary Perspectives* (2004). His book *What's a Person to Do? Everyday Decisions that Matter* was published in 2013 by Our Sunday Visitor Press. He was a member of such professional associations as University Faculty for Life, Society of Catholic Social Scientists, American Academy of Theology, and the Fellowship of Catholic Scholars. He served on the Fellowship's board. He and his wife Christine were married on October 11, 1986. They have four children, and now their first grandchild.

Requiescat in pace!

Fellowship of Catholic Scholars Quarterly

ISSN 1084-3035

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